

**DR. AMBEDKAR AS THE LAW MINISTER AND A
MEMBER OF OPPOSITION IN THE INDIAN PARLIAMENT
FEBRUARY 9, 1951
TO
APRIL 21, 1951**

Continued...

8

CONSTITUTION (FIRST AMENDMENT) BILL

The Prime Minister and Minister of External Affairs (Shri Jawaharlal Nehru): I beg to move.

" That the Bill to amend the Constitution of India be referred to a Select Committee consisting of Prof. K. T. Shah, Sardar Hukam Singh, Pandit Hirday Nath Kunzru, Dr. Syama Prasad Mookerjee, Shri Naziruddin Ahmad, Shri C. Rajagopalachari, Shri L. Krishnaswami Bharati, Shri Awadheshwar Prasad Sinha, Shri T. R. Deogirikar, Dr. B. R. Ambedkar, Shri V. S. Sarwate, Shri Mohanlal Gautam, Shri R. K. Sidhva, Shri Khandubhai K. Desai, Shri K. Hanumanthaiya, Shri Raj Bahadur, Shrimati G. Durgabai, Shri Manilal Chaturbhai Shah, Shri Dev Kanta Borooah, Shri Satya Narayan Sinha and the Mover with instructions to report on Monday the 21st May, 1951. "

This Bill is not a very complicated one ; nor is it a big one. Nevertheless, I need hardly point out that it is of intrinsic and great importance. Anything dealing with the Constitution and change of it is of importance. Anything dealing with Fundamental Rights incorporated in the Constitution is of even greater importance. Therefore, in bringing this Bill forward, I do so and the government does so in no spirit of light-heartedness, in no haste, but after the most careful thought and scrutiny, given to this problem.

I might inform the House that we have been thinking about this matter for several months consulting people, State Governments, Ministers of Provincial Governments, consulting, when occasion offered itself, a number of Members of this House, referring it to various Committees and the like and taking such advice from competent legal quarters as we could obtain, so that we have proceeded with as great care as we could possibly give to it. We have brought it forward now after that care, in the best form that we could give it, because we thought that the amendments mentioned in this Bill are not only necessary, but desirable, and because we thought that if these changes are not made, perhaps not only would great difficulties arise, as they have arisen in the past few months, but perhaps

some of the main purposes of the very Constitution may be defeated or delayed. In a sense this matter of course, has been mentioned rather vaguely and has been before the public for some time. But in the precise form that it has been raised in this Bill, it came up only when I introduced this Bill in the House a few days ago.

Pandit Kunzru (Uttar Pradesh): The Bill before us seems to be very simple, but it is nonetheless of a very far reaching character. It affects not merely the Constitution but also the spirit in which the Constitution is to be dealt with. A measure of such importance requires careful consideration and I think that we ought, all, to welcome the scrutiny to which it has been subjected by previous speakers. In order to justify the important changes that are sought to be made in the Constitution, Government should have taken care to supply us with full information on every point to tell us exactly why each particular amendment was needed. The Prime Minister spoke at considerable length but dealt, generally speaking with principles. When he dealt with specific matters he was very tantalizing ; he did not throw much light on the reasons for the specific measure that the Government have placed before us. In view of this some other Member of the Government should have given us fuller information than the Prime Minister gave. Perhaps my hon. friend. Dr. Ambedkar would have been the fittest person to explain to us in detail the provisions of the Bill, particularly those which relate to the amendment of article 19 and the insertion of two new articles 31A and 3 IB. I have no doubt that he will take part in the debate. He will probably get up in the end in order to have the last word on the subject.

The Minister of Law (Dr. Ambedkar): No, no.

Pandit Kunzru: That may suit him and the Government of which he is an important member, but it is most unfair to the House that it should be called upon.....

Shri Sidhva (Madhya Pradesh) : What is the unfairness ?

Pandit Kunzru : If Mr. Sidhva will have a little patience he will realise that every Member is not as enlightened as he is and that most of them require a little more instruction than he has ever done or ever will do.....

The Minister of Law (Dr. Ambedkar) : In the course of the debate yesterday, my friend Pandit Hirday Nath Kunzru said that Government had done great injustice to the House by not explaining the necessity and the purposes of the various clauses in this Bill and that some one on the side of Government—and he referred particularly to me—should have got up to discharge that duty to the House. I do not know that any Member of the House will believe that a person of the intelligence of my hon. friend Pandit Hirday Nath Kunzru is one who requires

an explanation of this Bill. My friend Dr. Syama Prasad Mookerjee evidently did not require any explanation of the Bill. As soon as the Prime Minister finished, he stood up and opened his fire. And I do not think that my friend Pandit Kunzru is less intelligent than my friend Dr. Mookerjee. However, as Pandit Kunzru expressed the wish of many Members of this House, I thought it incumbent on my part to intervene in this debate and to clarify the position so as to dispel the two arguments which had been used in the course of the debate, that there was no necessity for the amendment of the Constitution, and secondly, that Government could wait and give the country and the public larger and longer time and should not rush through this measure. In the observations that I propose to make, I will take the Bill clause by clause and try to explain the necessity for making the changes which the Bill proposes to make.

I will begin with clause 2 of the Bill. Clause 2 of the Bill proposes to amend article 15. The necessity for the amendment of article 15 has arisen on account of the judgements recently delivered by the Supreme Court in two cases which came up before them from the Madras State. One case was *Madras us. Shrimati Champakam Dorairajan* and the other was *Venkatraman us. the State of Madras*. In the case of *Venkataraman* the article involved was article 16, clause (4) and in the case of *Shrimati Champakam* the article involved was article 29, clause (2). In the one case the question involved was the reservation for backward classes in public services and in the other case, the question involved was the reservation for backward classes in educational institutions. The question turned upon what is known in the Madras Presidency and elsewhere as the Communal G.O. The argument on which the Communal G.O. of the Madras Government was declared to be void and invalid was this. It was said by the Supreme Court that article 29, clause (2), did not have a saving clause like clause (4) attached to article 16. As the House will remember under clause (4) of article 16, a special provision is made that article 16 shall not stand in the way of the Government making a suitable provision for the representation of backward classes in the services. Such a provision of course is not to be found in article 29. With regard to article 16, clause (4), the Supreme Court came to the conclusion that it involved discrimination on the ground of caste and therefore it was invalid. I have carefully studied both these judgements of the Supreme Court and with all respect to the judges of the Supreme court I cannot help saying that I find this judgement to be utterly unsatisfactory.

Shri Naziruddin Ahmad (West Bengal): Sir, on a point of order. Is it in order for any Member to express disrespect to the highest judiciary in the land? It is the custom in Parliament not to speak disparagingly about the courts.

Dr. Ambedkar: There is no disparagement of the learned Judges at all.

Mr. Speaker: I myself felt that the word should not have been used but I think

what the Hon. Law Minister meant was that judgement was unsatisfactory from the point of view of what the Government proposed to do.

Dr. Ambedkar: The judgement does not appear to be in consonance with the articles of the Constitution. That is my point.

Mr. Speaker: I am afraid the Hon. Minister will not be in order to pass any such structures on any judgement expressed by the Supreme Court.

Dr. Ambedkar: I am very sorry.

Mr. Speaker: I was thinking whether what he expressed was not capable of a different interpretation *viz.* that the judgement was unsatisfactory from the point of view of what the Government proposed to do.

The Minister of Home Affairs (Shri Rajagopalachari): Will the hon. Speaker forgive my intervention ? I think really what the Hon. Law Minister meant is that a doubt has arisen on account of the judgement.

Mr. Speaker: Let us now proceed.

Dr. Ambedkar: My view is that in article 29, clause (2), the most important word is ' only '. No distinction shall be made on the ground only of race, religion or sex. The word ' only ' is very important. It does not exclude any distinction being made on grounds other than those mentioned in this article and I respectfully submit that the word ' only ' did not receive the same consideration which it ought to have received.

Then with regard to article 16, clause (4), my submission is this that it is really impossible to make any reservation which would not result in excluding somebody who has a caste. I think it has to be borne in mind and it is one of the fundamental principles which I believe is stated in Mulla's last edition on the very first page that there is no Hindu who has not a caste. Every Hindu has a caste—he is either a Brahmin or a Mahratta or a Kunby or a Kumbhar or a carpenter. There is no Hindu—that is the fundamental proposition—who has not a caste. Consequently, if you make a reservation in favour of what are called backward classes which are nothing else but a collection of certain castes, those who are excluded are persons who belong to certain castes. Therefore, in the circumstances of this country, it is impossible to avoid reservation without excluding some people who have got a caste. On these points I do not think personally that the judgement is a very satisfactory judgement. In this connection I would like to state, notwithstanding what the House and some Members are saying, that I have often in the course of my practice told the presiding judge in very emphatic terms that I am bound to obey his judgement but I am not bound to respect it. That is the liberty which every lawyer enjoys in telling the judge that his judgement is wrong and I am not prepared to give up that liberty. I have always told the judges before whom I practised that that is my view of the matter. Now the point has to be borne in mind that in article 46 of the Directive Principles

an obligation has been laid upon the Government to do everything possible in order to promote the welfare and the interest of what are called the weaker sections of the public by which I understand to mean the backward classes or such other classes who are for the moment not able to stand on their legs—the scheduled castes and the scheduled tribes. It is therefore incumbent not merely on the Government but upon this Parliament to do everything in its hands to see that article 46 is fulfilled and if that fulfilment is to come, I cannot see how one can escape an amendment so as to prevent article 29, clause (2), and article 16, clause (4) being interpreted in the way in which it has been interpreted and being made to block the advancement of the people who are spoken of as the weaker class. That is the necessity for amending article 15.

I now come to the provisions of article 19, an article which gave rise to great excitement among the Members of the House. I first propose to take clause (3) (1) (a) of the Bill which amends the original clause (2) of article 19. As Members will see this sub-clause proposes to add three heads:

1. Relations with foreign States,
2. Public Order,
3. Incitement to offence.

A question was asked as to what was the necessity for introducing three new heads. The necessity has arisen out of certain judgements which have been delivered by the Supreme Court as well as by the Provincial High Courts. I would like to refer in this connection to the judgements of the Supreme Court in Ramesh Thapar's case and in Brij Bhushan's case. These are the two judgements of the Supreme Court. Then I come to the judgements of the State High Courts.

The following judgements of the Punjab High Court may be taken into consideration:

1. Master Tara Singh's case.
2. Amarnath Bali *versus* the State of Punjab.

There are two judgements of the Patna and Madras High Courts:

1. Shilabala Devi *versus* the Chief Secretary of Bihar.
2. Bynes *versus* the State of Madras,

In Ramesh Thapper's case what was involved was the validity of the Madras Maintenance of Public Order, 1949. Brij Bhushan's case involved the validity of the East Punjab Public Safety Act, 1949. Master Tara Singh's case involved the validity of sections 124A and 153 A of the Indian Penal Code. Amarnath Bali's case involved the validity of section 4 of the Indian Press (Emergency Powers) Act of 1931. Shilabala Devi's case also involved the validity of section 4 of the Press Act and the same was involved in the case of Bynes *versus* Madras State.

All these cases have resulted in the decision that they are void laws, that is to say, in view of the provisions contained in clause (2) of article 19, the courts have held that all these Acts, however valid they might have been before the Constitution came into existence, are bad laws now, because they are inconsistent with the Fundamental Rights.

What I want to ask the House to consider is, what is the effect of these decisions of the Supreme Court and the various High Courts in the States ? In order to give the House a very clear idea I can read many of the sections of the Acts which have been declared to be null and void but in view of the shortness of time I would content myself by reference to the Press Act, section 4, which has been called in question. This is what section 4 of the Press Act says:

" Whenever it appears to the Provincial Government that any Printing Press, in respect of which any security has been ordered to be deposited under section 3 is used for the purpose of printing or publishing any newspaper, book or other document containing any words, signs or visible representations which"—I want the House to mark these clauses carefully—

" (a) incite to or encourage, or tend to incite to or to encourage, the commission of any offence of murder or any cognisable offence involving violence, or

(b) directly or indirectly express approval or admiration of any such offence or of any person, real or fictitious, who has committed or is alleged or represented to have committed any such offence.

or which tend directly or indirectly. (c) to seduce any officer, soldier, etc.....

The important point to which I wish to draw the attention of the House is (a) " incite to or encourage, or tend to incite to or encourage, the commission of any offence of murder or any cognisable offence involving violence." It means that under the decisions of the Provincial High Courts to which I had referred it is now open to anybody to incite, encourage, tend to incite or encourage the commission of any offence of murder or any cognisable offence involving violence.

The one question that I would like the House to consider. is this. Is it a satisfactory position that any person should now be free to incite or encourage the commission of offences of murder or any cognisable offence involving violence ? I want the House to consider the matter dispassionately. Is it a desirable state of affairs (*Several Hon. Members* : No. no.) that our Constitution should leave us in this desperate position that we could not control the right of free speech which has been granted by clause (1) of article 19 and it should be so unlimited that any person should be free to preach murder or the commission of any cognisable offence. I have tried to put the matter in a nutshell. That is the position.

The same thing has now occurred with regard to the public safety laws or the

laws made by the various States for the maintenance of public order, because they also have been held by the Supreme Court to be not open to any limitation by virtue of the Constitution. The Supreme Court has made a distinction between the security of the State and the maintenance of public order. They say that it may be open for Parliament to make a law for the security of the State but it is not open to parliament to make a law for the maintenance of public order. There again I wish the House to consider the matter seriously. Is the House prepared to allow the right of freedom of speech and expression to be so untrammelled, to be so unfettered, that any man can say anything and go scot-free, although such speech creates public disorder ? If the judgements of the Supreme Court and the High Courts stand as they are, then the only consequence that follows is that we shall never be able to make a law, which would restrict the freedom of speech in the interests of public order and that we shall never be able to make a law which would put a restraint upon incitement to violence. I want my friend Dr. Mookerjee who—as coming events cast their shadow—played the part of a leader of the Opposition, whose business undoubtedly, from a party point of view is to oppose every thing to consider whether the void created in our legislation by the decisions of the Supreme Court and the Provincial High Courts should be allowed to remain in the name of freedom of speech. That is the simple question. I am sure in my mind that if my friend Dr. Mookerjee were to study the different decisions of the Supreme court and the Provincial High courts in the light of the observations I have made he will beyond question come to the conclusion that this is a situation which must be remedied and cannot be allowed to go on.

Pandit Thakur Das Bhargava (Punjab): He wants detention laws to be used for the purpose.

Dr. Ambedkar: Detention laws are something quite different. That is in a nutshell (*Shri Kamath: What a poor nutt!*) the case for amending article 19 of the Constitution.

It is next important to consider why the Supreme Court and the various State High Courts have come to this 10-00 A. M. conclusion. Why is it that they say that Parliament

has no right to make a law in the interests of public order or in the interests of preventing incitement to offences ? That is a very important question and it is a question about which I am personally considerably disturbed. For this purpose I must refer briefly to the rules of construction which have been adopted by the Supreme Court as well as by the various State High Courts, but before I go to that I would like to refer very briefly to the rules of construction which have been adopted by the Supreme Court of the United States—and I think it is very relevant because the House will remember that if there is any Constitution in the world of a country of any importance which contains Fundamental Rights it is the

Constitution of the United States, and those of us who were entrusted with the task of framing our own Constitution had incessantly to refer to the Constitution of the United States in framing our own Fundamental Rights. There are many Members I know, who are familiar with the Constitution of the United States. How does the Constitution of the United States read ? I think hon. Members will realise that apparently there is one difference between the Constitution of India and the Constitution of the United States so far as the Fundamental Rights are concerned. The Fundamental Rights in the Constitution of the United States are stated in an absolute form; the Constitution does not lay down any limitation on the Fundamental Rights set out in the Constitution. Our Constitution, on the other hand, not only lays down the Fundamental Rights but it also enumerates the limitations on the Fundamental Rights, and yet what is the result ? It is an important question to consider. The result is this, that the Fundamental Rights in the United States, although in the text of the Constitution they appear as absolute, so far as judicial interpretations are concerned they are riddled with limitations of one sort or another. Nobody can in the United States claim that his Fundamental Rights are absolute and that the Congress has no power to limit them or to regulate them. In our country I find that we are in the midst of a paradox; we have Fundamental Rights, we have limitations imposed upon them, and yet the Supreme Court and the High Courts say. " You shall not have any further limitations upon the Fundamental Rights."

Now comes the question ; how does this result come to be ? And here I come to the canons of interpretation which have been adopted in the United States and by the Supreme Court and High Courts in our country. As hon. Members who are familiar with the growth of the Constitution of the United States will know, although the Constitution of the United States is a bundle of bare bones, the United States Supreme Court has clothed it with flesh and muscle so that it has got the firmness of body and agility which a human, being requires. How has this happened ? This has happened because the U.S. Supreme Court, although it was the first Court in the world which was called upon to reconcile the Fundamental Rights of the citizen with the interests of the State, after a great deal of pioneering work came upon two fixed principles of the Constitution. One is that every State possesses what is called in the United States " police power ", a doctrine which means that the State has a right to protect itself whether the Constitution gives such a right expressly or not. The " police power " is an inherent thing just as our Courts have inherent powers, in certain circumstances, to do justice. It is as a result of this doctrine of " police power " that the United States Supreme Court has been able to evolve certain limitations upon the Fundamental Rights of the United States citizens. The second doctrine which the United States Supreme Court developed and which it applied for purposes of

interpreting the Constitution is known as the doctrine of " implied powers ". According to the decisions of the Supreme Court if any particular authority has been given a certain power, then it must be presumed that it has got other powers to fulfil that power and if those powers are not given expressly then the Supreme Court of the United States is prepared to presume that they are implied in the Constitution.

Now, what is the attitude which the Supreme Court has taken in this country in interpreting our Constitution ? The Supreme Court has said that they will not recognise the doctrine of the " police power " which is prevalent in the United States. I do not wish to take the time of the House in reading the judgements of the Supreme Court, but those who are interested in it may find this matter dealt with in the case known as Chiranjit Lal Chowdhuri *versus* the Union of India otherwise known as the Sholapur Mills case. You find the judgement of Mr. Justice Mukherjee expressly rejecting this doctrine which in the text of the judgement which I have, occurs on page 15. They say they will not apply this doctrine. The reason why the Judges of the Supreme Court do not propose to adopt the doctrine of " police power " is this, so far as I am able to understand, that the Constitution has enumerated specifically the heads in clause (2) under which Parliament can lay restrictions on the Fundamental Right as to the freedom of speech and expression and that as Parliament has expressly laid down the heads under which these limitations should exist, they themselves now will not add to any of the heads which are mentioned in clause (2). That is in sum and substance, the construction that you will find in the case of Thaper's judgement which was delivered by Mr. Justice Patanjali Sastri. He has said that they will not enlarge it and therefore as the Constitution itself does not authorise Parliament to make a law for purposes of public order according to them Parliament has no capacity to do it and they will not invest Parliament with any such authority. In the case on the Press Emergency Laws also they have said the same thing—that in clause (2) there is no. head permitting Parliament to make any limitations in the interests of preventing incitement to an offence. Since section 4 of the Press (Emergency Powers) Act provides for punishment for incitement to the commitment of any offence. Parliament has no authority to do it. That is the general line of argument which the Supreme Court Judges have adopted in interpreting the Constitution.

With regard to the doctrine of implied powers, they have also more or less taken the same view. Personally myself, I take the view that there is ample scope for recognising the doctrine of implied powers, and I think our Directive Principles are nothing else than a series of provisions which contain implicitly in them the doctrine of implied powers. I find that these Directive Principles are made a matter of fun both by judges and by lawyers appearing before them. Article 37 of

the Directive Principles has been made a butt of ridicule. Article 37 says that these Directives are not justifiable that no one would be entitled to file a suit against the Government for the purpose of what we call specific performance. I admit that is so. But I respectfully submit that that is not the way of disposing of the Directive Principles. What are the Directive Principles ? The Directive Principles are nothing but obligations imposed by the Constitution upon the various Governments in this country—that they shall do certain things, although it says that if they fail to do them, no one will have the right to call for specific performance. But the fact that there are obligations of the Government, I think, stands unimpeached. My submission is this; that if these are the obligations of the State, how can the State discharge these obligations unless it undertakes legislation to give effect to them? And if the statement of obligations necessitates the imposition and enactment of laws, it is obvious that all these fundamental principles of Directive Policy imply that the State with regard to the matters mentioned in these Directive Principles has the implied power to make a law. Therefore, my contention is this, that so far as the doctrine of implied powers is concerned, there is ample authority in the Constitution itself to permit Parliament to make registration, although it will not be specifically covered by the provisions contained in the Part on Fundamental Rights.

Dr. S. P. Mookerjee (West Bengal): Even though they may become inconsistent with the provisions of the Constitution ?

Dr. Ambedkar: That is a different matter.

Shri Kamath: That is a vital matter.

Dr. Ambedkar : What I am saying is this that the various provisos attached to the various fundamental articles need not be interpreted as though they were matters of strait-jacket as if nothing else is permissible.

Shri Kamath: You yourself made it.

Dr. Ambedkar: The point that I was trying to make to the House is that on account of the declaration by the Supreme Court that this Parliament has no capacity to make a law in certain heads, the question before the House is this: can we allow the situation to remain as it is, as created by the judgements, or we must endow Parliament with the authority to make a law ?

At this stage I do want to make a distinction and I do so for the special reason that Dr. Mookerjee came and said that we were taking away the freedom which people enjoyed. I think it is necessary to make a distinction between the capacity to make a law and the enactment of a particular law. All these matters as to whether a particular law encroaches upon the freedom of the people is a matter which can be discussed when the law is being made. Today we are not dealing with a law; we are only dealing with the capacity of Parliament to make a law.

[SHRIMATI DURGABAI *in the chair*]

Dr. S. P. Mookerjee : May I ask one question with regard to this point that you are only asking Parliament to endow you with power to make a law ? But according to the changes which have been proposed, all the laws which were invalidated will become valid retrospectively.

Dr. Ambedkar: I know that is a point on which my friend Pandit Bhargava laid great stress and it would be very wrong on my part to leave it unexplained.

Dr. S. P. Mookerjee : And the much-hated emergency laws will become good laws.

Dr. Ambedkar: It is not quite so. **Shri Kamath** : Almost ;

Dr. Ambedkar: So far I have dealt with two heads, namely, public order and the incitement to an offence. There remains the third category, namely friendly relations. We have at present on our statute book a law enacted in 1932 dealing with friendly relations with the foreign States. It is true that that law has not come for any adjudication before High Courts or the Supreme Court and it has so far not been declared to be *ultra vires*. But the fact remains that in view of rules of interpretation adopted by the Supreme court that nothing is within the capacity of Parliament unless that particular head of legislation is mentioned in clause (2) and as " friendly relations with foreign States " is not mentioned in clause (2) I do not think it requires an astrologer to predict that when that question comes before the judiciary they will follow the same line of interpretation.

Shri Kamath: Dr. Ambedkar is quite enough for the purpose.

Dr. Ambedkar: And it is for that reason that we have thought it necessary to include in the new heads this head of friendly relations with foreign states.

My friend Dr. Mookerjee asked whether there was any country where such a law prevailed. Well, I have searched for a precedent and I can tell him that I find no country which has not such a law. In the case of England it is a rule of Common law. No statutory law is necessary. The Common Law is operative not only in England but in all the Dominions. Therefore that same rule prevails there. In fact, the common Law rule has been amended and made more stringent by a statutory provision in Canada.

Pandit Kunzru (Uttar Pradesh): Will my hon. Friend explain a little more the position in England ?

Dr. Ambedkar: Yes, I will. I do not know—I must leave some time for the Prime Minister.

Hon. Members: Take your own time.

Dr. Ambedkar: There is some confusion. I think, in the minds of the people.....

Dr. S. P. Mookerjee: And the framers of the Bill.

Dr. Ambedkar: No, I do not think so. You will presently see that we have no such confusion. At any rate my mind is very clear about it.

Shri Kamath: Government as a whole, not you.

Dr. Ambedkar: What does maintenance of friendly relations imply? Most Members are under the impression that if this category was added they would not be in a position to criticise the foreign policy of the Government. I like to say that that is a complete misunderstanding and a misconception.

Shri Kamath: That is your opinion.

Dr. Ambedkar: The underlying principle of this category, namely maintenance of friendly relations with a State, is nothing more than an extension of the principle of libel and defamation, that you shall do nothing, you shall say nothing, you shall circulate no rumour which will involve a foreign State in any kind of ignominy. Beyond that there is nothing in this category. Even the English Common Law is based upon this, namely that it is a part of the law of defamation—that you shall not defame a foreign State which has a friendly relation with this country. Now, I want to know from Dr. Syama Prasad Mookerjee whether he thinks that even asking him or others that they shall not defame a friendly nation is such a serious inroad upon the liberty of speech that it should be condemned.

Dr. S. P. Mookerjee: Why not specify it ?

Dr. Ambedkar: It is understood that this is so. I know my friend is a great reader, but if he were to read the debates that took place in this Assembly in 1932 when this law was enacted, if he will read the Statement of Objects and Reasons—which I have read—and also the Report of the Select Committee on that Bill he will find that in this particular law there is nothing more than what I have stated.

Shri Kamath: Is not the expression " running dog " used by the Peking Government libellous or slanderous ?

Dr. Ambedkar: There the Peking Government ought to make a law.

Shri Kamath: If someone retaliates here ?

Dr. Ambedkar: This policy of tit for tat is not good for the State.

Shri Kamath: What about reciprocity ?

Dr. Ambedkar: It may involve us in great deal of trouble. If we are responsible to our friendly neighbours that our citizens shall not defame them, in the same way the Chinese Government is responsible that the Chinese citizens shall not defame India and the remedy must be left for each Government to adopt in accordance with its own executive authority.

Prof. Ranga (Madras): And sense of honour.

Dr. Ambedkar: Yes, and sense of honour.

Shri Naziruddin Ahmad: But the present law of defamation will protect foreign States also.

Dr. Ambedkar: My friend has provoked me to do something more which I did not want to do ! Now, let me read to him—this is very important—the law in the United States. Incidentally I would like to remind my friend Dr. Syama Parasad Mookerjee who so vehemently asked ' Is there any country which has such a law ? ', well, I point to the United States of America. I have got this big volume with me *Foreign Relations and Intercourse*.

Shri Frank Anthony (Madhya Pradesh): Is it part of the Bill of Rights.

Dr. Ambedkar: It says—this is an important point— " Notwithstanding the fact that the United States does not permit the Congress to make a law on this particular subject, the Supreme Court on the basis that every State has a police power to protect itself has permitted such a legislation to be on the statute book."

Shri R. K. Chaudhuri (Assam): But not on the Constitution.

Dr. Ambedkar: " What is the law ? "—my hon. friend Mr. Naziruddin who asked the question may read it. It goes much beyond our Indian law. The first clause says that " anybody wilfully and knowingly making any untrue statement, either orally or in writing, about any person shall be punished by imprisonment for not more than ten years and may, in the discretion of the court, be fined not more than five thousand dollars ". I want him to compare the punishing clause of our law with the punishing clause of this law.

Shri Naziruddin Ahmad: I raised a different question.

Dr. Ambedkar: Let me read it again.

Mr. Chairman: Order, order ; I do not think that too many interruptions help the debate.

Dr. Ambedkar: I do not mind replying if I can understand what they ask.

Shri Naziruddin Ahmad: I raised a different question altogether. My question was whether our law of defamation does not protect foreign States also.

Dr. Ambedkar: It does not.

Shri Naziruddin Ahmad: I think it does.

Dr. Ambedkar: No, it applies only when one person defames another. That is the point. Then the second clause in that law is about "wrongful assumption of character of a diplomatic or counsellor officer ". That also is made punishable under the law relating to foreign relations. One more important clause is about " conspiracy to injure property of a foreign Government ". There again the punishment is imprisonment of not more than three years or fine of not more than five thousand dollars or both. Therefore, our law is a very mild one.

Shri Kamath: If all untrue statements are tabooed it will put an end to all diplomacy.

Dr. Ambedkar: We are talking of citizens doing harm to the Government of the

foreign State.

Shri Kamath: Not Government-to-Government.

Dr. Ambedkar: With the explanation that I have given so far, Members of the House, I think will agree that there is a necessity for amending article 19 in the way in which sub-clause (1) of clause 3 of the Bill makes provision for it.

Some Hon. Members: No.

Dr. S. P. Mookerjee: If it is only for protection against defamation, why are you having it separately?

Dr. Ambedkar: Sometimes it is better to separate a certain category.

Shri Kamath: Expediency.

Dr. S. P. Mookerjee: Which is the Constitution in the rest of the world where such a separate provision is made? You contradicted me.

Dr. Ambedkar: The whole point is that the British Constitution is an unwritten Constitution and therefore nothing is necessary; Parliament is supreme.

Dr. S. P. Mookerjee: What about the American Constitution?

Dr. Ambedkar: There are no Fundamental Rights in the United Kingdom. That is the difficulty.

Dr. S. P. Mookerjee: In any written constitution does a similar provision exist?

Dr. Ambedkar: It does not, but in the United States of America according to the canons of interpretation adopted by the Supreme Court such a law is possible.

Dr. S. P. Mookerjee: That is a different matter.

Dr. Ambedkar: It is not different at all.

Now I come to clause 3, sub-clause (1x6). This clause seeks to amend clause (6) of article 19 which deals with trade, profession, etc.

Shri Deshbandhu Gupta (Delhi): Before the Hon. Minister goes to clause 3(1) (b), may I ask him one question? The words are "defamation or incitement to an offence" and all laws existing today will become.....

Dr. Ambedkar: I have not come to that.

Shri Deshbandhu Gupta: I want you to answer that.

Dr. Ambedkar: I will not answer it now. I will answer it at my own time. I have noted it and I think it is a question to which some answer should be given. There is no ground for running away from it. It may be that the House may not accept my explanation, but that I have no explanation to offer is not the presumption that should be made.

With regard to this clause it will be noticed that the latter part of clause (6) has been separated into two parts, one dealing with the qualifications for practising any profession, and the second part dealing with the actual carrying on of any trade etc. The important part of that second part lies in this that it permits the State to make a different classification between private members carrying on the

trade and the State carrying on the same trade. This clause and the necessity for its introduction has arisen on account of the judgement of the Allahabad High Court reported in 1951 A.I.R. (Allahabad) 257, Full Bench, known as *Motilal versus the Government of Uttar Pradesh*. As hon. Members will remember, U.P. Government have introduced a scheme of nationalisation of motor transport. They were proceeding with their scheme piecemeal, territory by territory; certain territory they had said would be subject to their monopoly and that no private individual would be entitled to run their buses within that territory; certain territory which they thought in the beginning they could not cope with they left to private bus owners. In doing so, they said that it would not be necessary for the State to obtain a licence for the running of their buses within the territory that they had ear-marked for themselves, but required the private owners to obtain licences from the State. This question was raised before the Allahabad High Court on the ground that they involved discrimination. It seems to me that if nationalisation is a desirable thing and in the best interests of the country, then it must also be admitted that it may not be possible for the State to undertake nationalisation all throughout the country at one and the same time. It involves administrative problems; it involves many other problems and consequently, in order to fully carry out the scheme and to consolidate it, it may be necessary for the State to define a territory and to leave others to carry on for the time being. Such a process should not be hampered by the doctrine of non-discrimination. It is to get rid of this doctrine of non-discrimination in the matter of nationalisation that this particular amendment has been introduced and I do not think that the House will very seriously object to this kind of doing.

An Hon. Member: The same thing from the High Court.

Dr. Ambedkar: Now I come to clause 3, sub-clause (2) about which.....

Dr. S. P. Mookerjee: Why have you omitted the word 'reasonable' from the existing clause?

Dr. Ambedkar: The word 'reasonable' was not there. That is a matter which may be discussed. (*An Hon. Member* ; In the Select Committee.) In the House, everywhere.

Now I come to clause 3, sub-clause (2). In order to understand what this amendment precisely does, I think it is necessary to go back to article 13. It is only in the light of article 13 that one can have a clear idea of this particular sub-clause 31. As hon. Members know, article 13 declares that if any law is inconsistent with the Fundamental Rights, that law shall be declared to be void and inoperative. As I have shown in the course of my observations, certain provisions of laws, such as sections 153A and 124A of the Indian Penal Code, certain provisions of the Press (Emergency Powers) Act and the Public Safety Acts have now been declared to be void by the Supreme Court and by the

various High Courts. In view of this, what are we to do? It seems to me that there are three alternatives which we could pursue. The first alternative is to refuse to amend the constitution and to let the void provision remain as it is. I do not think that any Member of this House would like this alternative. (*An Hon. Member* : It would be disastrous). The second alternative is to amend the Constitution, and then under this, there are two courses open. The first course open to us is to re-enact this law in consonance with the amended article. That is one way. Parliament and the various State Legislatures should call in their sessions and tackle with these laws once again. The second course is to revive these laws and to say that the revival of these laws shall be subject to the provisions contained in the amended Constitution. I cannot see what else one can do. The Bill adopts the second course. The Bill says: let the laws which have been declared by the Supreme Court and the High Courts to be null and void be deemed to be alive, but subject to one proviso, and that proviso is that they shall not be alive in their original body and flesh but they shall be alive only in such degree and in such manner as may be consistent with the amended article 19. That is the position. Now, I would like to ask the House whether they will seriously contemplate the possibility of either this Parliament or the various Legislative Assemblies in the Provinces to again sit and re-enact these laws.

Dr. S. P. Mookerjee: Why not ?

Dr. Ambedkar: Is there time for it?

Dr. S. P. Mookerjee: What is happening ?

Dr. Ambedkar: I do not know what time it might take. But I am sure about that if my hon. friend Dr. Mookerjee were to be a member of the Bengal Legislative Assembly, he will prevent such a law being passed there for at least six months. His argument, his eloquence, all that would stand as a formidable Chinese Wall against any re-enactment of these laws. Therefore, it seems to me not to be a very unnatural presumption that in the present circumstances in which this Parliament is situated or the local Legislative Assemblies are situated, you cannot presume that there would be immediately the time available for the re-enactment of these laws. I cannot think of it myself. We have so much legislation here.

Shri Sarangdhar Das: Why not the new Parliament?

Dr. Ambedkar: If it is the new parliament, it means that for six, seven or eight months on a year, there will be no law for public order; there will be no law for incitement to an offence and no law for friendly relations with foreign States. If Members of Parliament can contemplate such a contingency, they are welcome to it.

Ch. Ranbir Singh (Punjab): The new Parliament can repeal these laws if they so want.

Dr. Ambedkar: I have dealt with article 19.

Dr. S. P. Mookerjee: Why are you giving retrospective effect ?

Dr. Ambedkar: Unless you give retrospective effect, these laws cannot be revived.

Shri Shiv Charan Lal (Uttar Pradesh): Is that legal ?

Dr. Ambedkar: Why not ? If these laws are to be in operation, they must be in operation on the date when this law comes into existence. You can give it a new beginning if you can re-enact; but I do not see how you can re-enact.

Shri Deshbandhu Gupta: Because the Hon. Law Minister is going to another article, may I ask a question with regard to this article ? The power sought to be conferred refers to incitement to an offence. Section 4 of the Press (Emergency Powers) Act, to which the Hon. Law Minister has referred, involves incitement to murder or to an offence involving violence. I want to know.

Dr. Ambedkar: Do you want to advocate it ?

Shri Deshbandhu Gupta: No. I want to know whether under the wide powers that are sought to be taken, it is not possible to advocate even non-violent disobedience to any order which may be against the liberties of the people, and which will constitute an offence under other enactments. I want an explanation. For instance, section 144 prevents the holding of a meeting for unlawful purposes. Some district magistrate issue an order. A newspaper, tomorrow, advises the people that this order is absolutely obnoxious and it may be disobeyed. Will it or will it not constitute an offence although it is neither an incitement to violence nor incitement to murder ?

Shri Rajagopalchari : May I submit that such extensively detailed discussion may be reserved for the Select Committee. The principles have been explained. Otherwise, we will have no time.

Shri Deshbandhu Gupta : If the Hon. Minister gives an assurance that it will be modified, it is enough.

Mr. **Chairman:** Whatever it may be, the hon. Members who are frequently interrupting, I think, have had their say already, and their points of view have been taken note of. Now, let the Hon. Law Minister, who is now speaking have his say.

Shri Kamath: Does it mean that those who have not had their say can interrupt?

Mr. **Chairman:** No ; that does not mean that. Most hon. Members will do well to take note of this.

Shri Shiv Charan Lal: Only one question. Will it be legal to give retrospective effect ?

Dr. Ambedkar: Oh yes; undoubtedly.

Pandit Thakur Das Bhargava: May I ask one direct question ? Is the Hon. Law Minister satisfied with the terms of article 19(2) as he seeks to amend it ?

Dr. Ambedkar: I have explained the principle. If as I said, the language requires to be modified to give effect to the principle, there can be no objection. But, the principle is that they shall be revived.

Shri Deshbandhu Gupta: The Hon. Minister has not thrown any light on the removal of the word ' reasonable '.

Dr. Ambedkar: It is not removed; it was not there.

Pandit Thakur Das Bhargava: But the other things were there. You have taken away all those safeguards.

Dr. Ambedkar: That is a different matter. That will be considered by the Select Committee.

Now, I come to clause 4 of the Bill. This clause introduces a new article 31A. Let us understand, first of all, what this article does. What this article does is to permit a State to acquire what are called estates. Secondly, it says that when any legislation is undertaken to acquire estates, nothing in the Fundamental Rights shall effect such a legislation. The merits of this article, I think have to be judged in the light of one question, and it is this. Is there anything revolutionary in this article ?

Shri Frank Anthony: It is reactionary.

Dr. Ambedkar: Is there anything in this article which is not to be found in article 31? It is from this point of view that I want the House to consider this question. The House would remember that later clauses of article 31 provided that certain laws which were then on the anvil and had not been passed, shall not be questioned on the ground of compensation if a certificate was issued by the President. That is the gist of those clauses of article 31. The new amendment to article 31 not only removes the operation of the provision relating to compensation, but also removes the operation of the article relating to discrimination. In this amendment, I am emphasising the word ' estate '. The new article is a very limited one. It does not apply to the acquisition of land. It applies to the acquisition of estate in land which is a very different thing. What is an estate has been defined in this particular article namely, the right of a proprietor, sub-proprietor, tenure-holder, or other intermediary. Of course, the terminology is different in different provinces. It does not refer to the acquisition of land. That is a point to be borne in mind. Therefore, all that article 31A does is this. When any law is undertaken with regard to the acquisition of property, two questions can properly arise. One is the amount of compensation ; the second is discrimination as between the various proprietors as regards the amount of compensation. These are the only two questions that can possibly arise and give rise to litigation. With regard to one part of it, dealing with compensation, we have

already excluded the acquisition of proprietary and zamindari interests by the original article 31. By this article, we are excluding the operation of the discriminatory provision. That is all what we are doing by this article.

It seems to me that we really cannot adopt the said two articles of the Fundamental Rights relating to compensation and discrimination with regard to this land question. I have paid considerable attention to this subject. I may say that I have studied with great care the situation in Ireland, a country which resembles very closely our own. In Ireland, the peasantry is hungering for land. Land in Ireland has been unevenly distributed. Some have very large estates; some have very small. There are many who are landless. What has the Irish Constitution done ? I want the Members who are representing the landed interests to consider this case in a comparative manner. Now, so far as the Irish constitution is concerned, property in land particularly is not a Fundamental Right. Article 43 of the Irish Constitution clause (2), states that the exercise of the right mentioned, that is the right on land, should be regulated by the principles of social justice. It does not say that land shall not be taken except on the basis of full compensation or without any discrimination as between landlords. What the Irish law does is this. They have appointed what is called the " Congested Board ", as 'they call it, or congested Areas board. It is a separate organisation created by law and this Board has been given the power to acquire land, to break up holdings, to equalise land, to make uneconomic holdings economic ones by taking land from a neighbouring owner and the right of assigning compensation has been given to this Board of congested areas. There is no judicial authority to interpret the action of this board.

An hon. Member: And no appeal ?

Dr. Ambedkar: And no appeal at all. Some people have of course, taken appeals to the courts, but the courts have held that no appeals lie with any court.

Now, I can, speaking for myself, say without any hesitation that I am not at all an admirer of the new schemes that have been drafted by these States who have acquired land. It is, in my judgement, not a very good thing to create peasant proprietors in this country. Our difficulty in this country has arisen by reason of the fact that we have small landlords holding half an acre of land or an acre or two acres, with no money, no measure, no bulls, no bullocks, no implements, no seeds and no arrangement for water. And yet they are the landlords and the holders of the land. Looking at the future, I feel very aghast as to what is going to happen to this country and its national production of food, if this kind of agricultural system continues. I would have very much liked if the State had acquired all these properties and kept the land as State land and given it on permanent tenancy to cultivators so that the State would have had the right to create collective farming and co-operative farming on the basis of supplying the

materials and so on and so forth. But now we have a large number of landless labourers in this country, and I think their number will exceed even five crores. But when you make these laws, making the tiller of the soil the owner of it, what provision can you make for the welfare of these landless labourers ? They will remain where they are—high and dry— notwithstanding the abolition of *the zamindars*. I am, therefore, not very happy at what is being done. But that is a different question altogether. The question we are considering now is whether the intermediaries should be allowed to continue. That is the point, and on the point, I think there can be no dispute that the intermediaries should be liquidated, without any kind of interference from the Fundamental Rights either on the ground that there is no adequate compensation or that a discrimination has been made. I have got with me a very interesting paper which I secured from the Government of West Bengal. Hon Members will remember that there was a Commission called the Flood Commission, appointed for the purpose of liquidating the *zamindars* in Bengal. After that Commission had reported, the Government of Bengal appointed a special officer in order to find out how effect could be given to the recommendations of the Flood Commission and that officer has made a very interesting report. I have got a copy, but as I said, I have not got the time now to go through the whole of it. But that officer himself recommended that equality of compensation would be wrong. It would be neither just nor equitable, though it may be administratively smooth. He has worked out a scheme of compensation which is very interesting, and the scheme is one of graded compensation. In the case of profits up to Rs. 2,000 the compensation should be fifteen times the net profit. From Rs. 2,000 up to Rs. 5,000 it should be twelve times but not less than the maximum amount given under the previous item. From Rs. 5,000 up to Rs. 10,000, the compensation should be ten times but not less than the maximum under the Rs. 2,000—Rs. 5,000 category and for profits above Rs. 10,000 it should be eight times but not less than the maximum under the last-mentioned category. It is all a graded thing. And I am afraid that we should not get mixed up with this question of compensation which is a very ticklish problem. If you want the betterment of agriculture, I am convinced that these intermediaries must be liquidated. The original article exempted compensation for the acquisition of *zamindari* rights. We are now dealing with exemption from discrimination. I do not see why article 31 should now continue to operate, when there is a law for the purpose of acquiring these estates.

Shri Shiv Charan Lal: What about article 14 about discrimination ?

Dr. Ambedkar: The whole chapter is excluded from operation.

Shrimati Renuka Ray (West Bengal): When the Hon. Minister is prepared to go far, why does he not go further ?

Dr. Ambedkar: I am not revolutionary enough.

Shrimati Renuka Ray: But you yourself suggested that the State should acquire the land?

Dr. Ambedkar: Yes, but I am a progressive radical.

Now, I come to article 31 B. This article enumerates in the Ninth Schedule certain laws which have been passed. Great objection has been taken that this is a very unusual procedure. *Prima fade*, it is an unusual procedure. But let us look at it from another point of view. What are these laws? What are the principles on which these laws are made which are being saved by the Ninth Schedule. All the laws that have been saved by this Schedule are laws which fall under article 31A. That is to say, they are laws which are intended to acquire estates. And when we say by article 31A that whenever a law is made for the acquisition of an estate, neither the principle of compensation nor the principle of discrimination shall stand in the way of the validity of it. I admit that sentimentally there may be objection. But from the practical point of view. I do not understand why we should not declare them valid pieces of legislation.

Shri Naziruddin Ahmad : They are bad laws and so they have to be declared valid!

Shri Syamnandan Sahaya (Bihar): May I enquire whether these laws that are now sought to be validated will cover, only land reforms or whether there will be interference with other laws like the Transfer of Property Act and other Act? Has this aspect of the matter been investigated by the Government?

Dr. Ambedkar; I shall be quite frank about it. The only 11-00 A. M. other method to adopt would be to give power to the President to revise these laws and to reconstruct them and to bring them strictly in conformity with the provisions of article 31.

Pandit Thakur Das Bhargava: Under article 31 we decided that if President certifies certain laws, they will be valid. Now that safeguard has been taken away.

Dr. Ambedkar: The reason why that has not been done is this. Just imagine the amount of burden that would be cast upon myself, on the Law Ministry, the Food and Agriculture Ministry and other Ministries involved if we were to sit here and examine every section of each one of these Acts to find out whether they deviate. I think that is impossible.

Shri Kamath: Appoint a Committee for the purpose

Dr. Ambedkar: That will mean postponement of this Bill.

Now I come to clause 6 which seeks to amend article 85. In article 85 the word used is 'summon'. This word has given rise to some difficulty. The word 'summon' has a technical meaning, *viz.* sitting of Parliament after a prorogation or dissolution. It does not cover the case of the sitting of Parliament after adjournment. The result is that although Parliament may sit for the whole year

adjourning from time to time, it is still capable of being said that Parliament has been summoned only once and not twice. There must be prorogation in order that there may be a new session. It is felt that this difficulty should be removed and consequently the first part of it has been deleted. The provision that whenever there is a prorogation of Parliament, the new session shall be called within six months is retained. That is the difference between the old article and the new, *viz.*, the summoning has been dispensed with. Parliament may be summoned once and it may continue to go on after short adjournments from time to time.

Another difficulty with regard to clause (2) is—it was contended by some that according to the letter of this article it is necessary that both Houses should be prorogued simultaneously and not at different times. That certainly was not the intention of the Constitution. The Constitution intended that one House may be summoned at one time, another may be summoned at another time, one may be prorogued at one time and another may be prorogued at another time. It is to make this possible that clause (2) has been amended.

With regard to article 87, which is sought to be amended by clause 7, the position is this. Under the old article the provision was that whenever Parliament was summoned, there was to be an address by President. Now as Parliament will be summoned only once and it will continue either by prorogation or by adjournment, it is not necessary to retain this provision. Similarly.....

Shri Kamath: How can it continue after prorogation ?

Dr. Ambedkar: If it is prorogued, then it will be summoned. If there are two summonings, the address by President will be only once. With regard to precedence for debate, that also has been deleted—not that there will be no time given but for the simple reason that there may be some urgent business which may require to be disposed of earlier.....

Shri Syamnandan Sahaya: Supposing the President wants to address the House, this will be a limitation imposed on him.

Dr. Ambedkar: Now I come to articles 341 and 342. As the House knows, today the power of issuing scheduled castes and the scheduled tribes order so far as part A and Part B States are concerned is given only to the President while the power to issue such orders with regard to Part C States is given to Parliament. That position is now being altered and the power is given to President even to make an order with regard to scheduled castes and scheduled tribes in respect of Part C States also.

Then article 372 invests the President with the power to make adaptation in existing laws in order to bring them in conformity with the provisions of the Constitution and that power is given only for two years. This House will remember on account of the pressure of other business it has not been possible

for Government to examine all the existing laws in order to find out how many of them are inconsistent with the provisions of the Constitution. It is therefore felt that the President's power to make such adaptation in the existing laws in order to bring them in conformity with the Constitution be extended by one more year so that means may be adopted in order to find out which laws are inconsistent and a consolidated order may be issued thereafter.

Shri Kamath: The article also provides that once Parliament is elected under the new Constitution, the President shall not exercise this power.

Dr. Ambedkar: If this article gives the power, then that of course overrides.

Shri Kamath: How can that be ?

Dr. Ambedkar: Then I come to article 376, clause 13. A good deal of objection was taken to this particular clause. It deals with the appointment of persons who are not citizens of India to the posts of Chief Justice and Judge of any High Court. The position is this. Article 217, clause (2) says that a Judge of the High Court must be a citizen of India. Article 376 provides that existing Judges including Judges who were not citizens on the date when the Constitution came into operation shall continue as Judges if they so choose. Now it so happens that we have in our country some four High Court Judges who were on the date of the Constitution, Judges of Certain High Courts but were not citizens of India. They chose to remain at their posts and did not retire. We were therefore bound to carry them over under the provisions of article 376. A question has arisen and it is this. Can such a person be appointed as a Chief Justice either in the Court in which he is serving or in some other Court ? Another question that has arisen is this. Can such a Judge be transferred to another High Court, the point being whether the appointment of a Chief Justice or the transfer of a Judge from one High Court to another High court is a new appointment ? If it is a new appointment, obviously the provisions of article 217(2) would apply. This was felt as a great difficulty, because it could not be presumed that parliament intended merely to continue them but their prospects should be blocked. Such evidently was not the intention. Consequently the President under the powers vested in him under article 392, clause (1) for the purpose of removing difficulties, issued an order regularising the position. That order in some quarters has been questioned as being outside the power of the President, there being no difficulty whatsoever. In order to remove these doubts it is thought better to make a provision in the Constitution itself and that is why clause 13 is included in this Bill.

Mr. Chairman: Will the Hon. Minister explain why was not originally the transfer contemplated? Is it not a new situation created by this clause ?

Dr. Ambedkar: That is what I interpret to be the intention of article 376 viz., that once they were carried over, they were carried over for all purposes, either transfer or promotion.

But some people have found this difficulty.....

Pandit Thakur Das Bhargava: The idea was that the Chief Justice shall not be a non-national. What is the reason now ?

Dr. Ambedkar: The reason is obvious. When you accept a man as a Judge you certainly accept him for your own convenience and you should be in a position to transfer him to some other court. For the benefit of and in fairness to that individual he should not be debarred from promotion.

Pandit Thakur Das Bhargava: Would you like the Prime Minister of India to be a non-national ?

Dr. Ambedkar: We are dealing with these four exceptional cases. (*Interruption*). The provision is very clear and I do not think anybody can quarrel with it.

I believe I have exhausted all the points raised in the course of the debate. If anything remains I shall be prepared to deal with it when the Bill is taken up clause by clause.

CONSTITUTION (1ST AMENDMENT) BILL 1951

Shri Jawaharlal Nehru:Now, it has become a convention—I cannot immediately say whether it is anything more and whether it is in the Constitution itself—that anything coming under the concurrent list of legislation, any law passed by a State Assembly, has to come up here for examination and for the President's approval. Is that so?

An hon. Member: Not until this House has passed a law.

The Minister of Law (Dr. Ambedkar): If it is inconsistent.

An hon. Member: Not until this House passes a law.

Shri Jawaharlal Nehru: What I mean was, if there is obvious repugnance then, of course, it does not come into effect. That is obvious. But in order to examine that there is no repugnance, in order to see that it is what the legislative lists contemplate, it comes up here of the President's assent. Therefore, in effect.....

Shri Bharati (Madras): Not necessarily.

Shri Jawaharlal Nehru: I do not say it is necessary, in the sense that the law does not take effect. But I am told that it is practically automatic and anyhow it has been in practice automatic. And such laws have to come up here, every one of them, for they come up daily, first of all to the Home Ministry to examine and to the Law Ministry also to examine and it comes before the President to see whether he expresses his approval or not. So it can be taken for granted that, especially in a matter of this kind it must inevitably come. I go beyond that and if the House wishes I am perfectly willing to add that clause about the President's assent to article 19. It is for the House to decide.

Dr. S. P. Mookherjee :'. Before I take my seat, I once again request the Prime Minister to consider the main purpose of my two amendments with regard to the substitution of the word ' Parliament ' in the place of ' State ' or if that is not possible, at least to provide that the laws passed by the States in this behalf will be subject to the President's assent. If that is done, it will, to a great extent, remove the difficulties which stand in our way.

The Minister of Law (Dr. Ambedkar) : My only excuse for intervening in this debate is to clear certain points which relate to the constitutional provisions which are necessarily involved in the amendments which have been tabled. In the first place, I propose to deal with the two amendments together : the first amendment is that Parliament should have the exclusive power to make laws under the provisions which are now being introduced in the proposed clause (2) of article 19 and the second is that, if that is not possible, the President should have the power to give his assent to any law made under this new proposed clause and unless that assent was given, that law should not be deemed to be valid.

With regard to the question of bringing in Parliament, there are two aspects to the matter which, I think, it is desirable to consider carefully. One is this: Is it possible to give exclusive power to Parliament to make a law in a field which is covered by the new clause (2)? On this matter, I should like to invite the attention of the House to article 368 which deals with the amendment of the Constitution. That article specifies certain classes of amendments to the articles of the Constitution which would require the ratification of the States before the amendments could be deemed to have been validly passed. I do not propose to go over all the different categories that have been set out in article 368. I content myself by reference to only one and I refer to Chapter I of Part XI. Article 368 says that if any article which forms part of Chapter I of Part XI is amended, then such an amendment will require the ratification of the State. It will be noticed that article 246 clause (3) falls in Chapter I of Part XI. That article says that the States shall have the exclusive power to make laws in relation to any entry in List II, which means that Parliament shall not have the power to make laws with regard to any item in List II. If Members of this House would refer to List II, they will notice that Entry I in that List refers to public order. Public order is one of the categories of heads of legislation which we are introducing for the first time in clause (2) of article 19, by this amending Bill. It is therefore quite clear that if you were to give Parliament power to make law in respect of public order which is included in List II, and which according to article 246(3) confers exclusive legislative jurisdiction upon the States, then it is obvious that such an amendment would require the ratification of the States. Now the intention of the Government as well as of this House, I think on this point is quite clear, namely, that we do not propose to make any amendment to any clause which would require the assent

or the ratification of the States. From that point of view, I think, all those who have tabled this amendment would agree that it is not possible to accept that amendment without involving this particular Bill in a great difficulty which it would not be possible for this House to overcome within the time within which we propose to carry through this measure.

As the Prime Minister said yesterday, all of us have sympathy with the proposal, namely, that if it were possible Parliament should be given the power to legislate. We have also sympathy with the suggestion that the President may have the right to give his assent before the Bill becomes law. But the question that has to be considered is, is such a thing necessary? Is it not contained in the very provisions of the Constitution? Now, let me refer hon. Members to the heads of legislation we are introducing in the present clause and the place they have in the various entries in Schedule Seven.

Take the security of the State. There is no particular entry of this nature—security of State—for the simple reason that the security of the State can be affected by a variety of entries and the power is necessarily distributed under different heads. At the same time hon. Members will see that entry I of List I is a very relevant entry so far as the security of the State is concerned. Take the second head—friendly relations with foreign States. That is covered by entries 9, 10 and 14 in List I. Take the third head—public order, decency and morality. That is in entry I in List II.

Dr. S. P. Mookerjee: What entry?

Dr. Ambedkar: It is entry I in List II to some extent. And so far as newspapers, books etc. are concerned it is also related to entry 39 in List III. Contempt of court comes in entry 95 in List I and also in entry 14 in List III. Defamation is in entry I in List III. Incitement to an offence is in entry I in List III.

Now having had this information before the House, I think the House will understand that in the large majority of the cases since the entry either falls in List I or in List III, Parliament has in some cases the exclusive authority to make law, in some cases concurrent authority to make them.

Dr. S. P. Mookerjee: Will the Hon. Minister be more specific? Where is the concurrent power to pass laws regarding public order?

Dr. Ambedkar: With regard to public order, there is another entry—39 in List III—which speaks of books and newspapers. Newspapers are very much concerned.

Dr. S. P. Mookerjee: The Hon. Minister is arguing that with regard to certain matters—in fact with regard to all the matters either Parliament has concurrent jurisdiction or has exclusive jurisdiction. I would like him to be more specific.

Dr. Ambedkar: I am giving the entries.

Dr. S. P. Mookerjee: Public order?

Dr. Ambedkar: The large head for public order is entry I in List II. Newspapers may also come under public order.

Dr. S. P. Mookerjee: It is not.

Dr. Ambedkar: The point is this. Some law has to be related to some entry. How is the authority of Parliament or the authority of a State to be determined to make a law ?

Dr. S. P. Mookerjee: Will the Hon. Minister admit that Parliament has no concurrent jurisdiction in respect of laws relating to public order except newspapers ? Let us have it clearly.

Dr. Ambedkar: Yes.

Mr. Deputy Speaker: The Hon. Minister does not say that every item is in the Concurrent List.

Dr. Ambedkar: A large majority of them is exclusively in the jurisdiction of Parliament and in some cases the jurisdiction is also concurrent. Therefore my submission to the House is this—that nothing is necessary for the purpose of investing Parliament to make a law in the fields which are mentioned here as exclusive right of legislation. Parliament has, in certain cases, got also concurrent power so that it can check any abuse that the Provincial Legislatures may make of the power that we are conferring.

Dr. S. P. Mookerjee: What is the power regarding incitement to offence under the Concurrent List ?

Dr. Ambedkar: It comes under the Penal Code. Incitement to offence is a specific offence in the Penal Code.

Dr. S. P. Mookerjee: The Hon. Minister should read to the House entry I of.....

Dr. Ambedkar: I cannot yield to him just like he did not yield to the Hon. Home Minister. This is not a lecture room and I am not lecturing to the students either. I am making my point. If my hon. friend wants an exposition we can meet somewhere in the Constitution Club—and I shall be prepared to lecture to him.

Mr. Deputy Speaker: All that I can say is the hon. Member contends that entry I in List II—State List—only relates to public order and this is not covered. Incitement to offence is in the Penal Code. If he is not satisfied, he can draw his own inferences.

Dr. Ambedkar: It is open to you to say that this does not cover public order.

Mr. Deputy Speaker: All that the Hon. Minister wants to show is that with respect to the majority of the offences, they are either in the Union List or in the Concurrent List. The minority may be more important than the majority.

Dr. S. P. Mookerjee : The Hon. Minister stated that incitement to offence comes under entry I in the Concurrent List but that item reads like this:

" Criminal law, including all matters included in the Indian Penal Code at the

commencement of the Constitution but excluding offences against laws with respect to any of the matters specified in List I or List II and excluding the use of naval, military or air forces or any other armed forces of the Union in aid of the civil power ".

Dr. Ambedkar: I will not give in. I would like to finish my speech before one o'clock.....

Dr. S. P. Mookerjee: It means that there will be no incitement to any offence which comes under public order in List II.....

Dr. Ambedkar: I am not running away from that point. I am very much interested in it.

Dr. S. P. Mookerjee: I know you are.

Dr. Ambedkar: Yes, I am.

I now come to the President's assent. Under article 200 of the Constitution the Governors or the Rajpramukhs of the different States are empowered to withhold their assent from any particular Bill and refer it to the President. That provision already exists. Naturally the Governor has to act on the advice of his Minister and if he felt that a measure should be reserved for the consideration of the President, the power is already there. No new power is required. But it may be argued that this power is in a sense nugatory, because it depends upon the advice given to him by the Ministry and the Ministry which has been a party to a measure cannot be expected to give their advice to the Governor to refer the matter to the President.

There is also another article 254 which deals with the laws in the concurrent field and that article says that if there is any inconsistency between any law made by Parliament and a similar law on the same subject made by a State Legislature, then to the extent of the repugnancy and inconsistency the law of the State shall be void. There is in addition to that a further provision in clause (2) of that article that if such a law, which is inconsistent with the law made by Parliament on the subject, is reserved for the assent of the President and the President gives his assent, notwithstanding the repugnancy the law shall remain void so far as that State is concerned. So far as our experience in the Law Ministry goes almost every State has got the fear that their law may be declared to be inconsistent and hence void. In order to prevent this contingency the States have always taken the safest course to refer all these measures to the President for his consideration and assent and his assent has generally been given either in the form in which the Bill stands or with some modifications. Therefore my submission is that so far as the Constitution is concerned articles 200 and 254(2) contain enough safeguards to see that such measures do reach the President and receive his consideration and assent.

Shrimati Durgabai: Under what procedure ?

Dr. Ambedkar: I was just referring to it. Under article 254(2).....

Shrimati Durgabai : How ?

Dr. Ambedkar: I know some people have got a bee in their bonnet. On all these three counts I submit that all these amendments are quite unnecessary.

I propose to deal with some of the points raised by my friend Pandit Kunzru. So far as his amendment dealing with change of words is concerned, his words I suppose are merely poetical alliterations and I do not think there is any substance in them, whether you call it friendly relations or by some other words : the substance and the head of legislation remaining what it is. I am therefore not prepared to spend my time in dealing with them.

But he has been making a great deal of capital with regard to the American case which he can never forget namely *Near versus Minnesota*. It is true that the U. S. Supreme Court nullified a law which had made previous restraint as unconstitutional. But with regard to that case I think it is not desirable to fix our banner and standard by the decision that was given, because I would like to draw my learned friend's attention to some of the incidents with regard to that particular case. I have a book with me and I shall give the name. I know that Dr. Mookerje is very careful in pursuing these matters. The book is *Free Speech in the United States*. There are various other books also which he must have known. Now with regard to this particular case the first point which the American writers have themselves noted is that it is a decision which was arrived at by a bare majority of one single judge ; it was a decision which was given by five to four. The second thing is that at page 380 the writer himself has said that on account of this very narrow majority—

" The *Near* case had no immediate effect beyond voiding the Minnesota statute, which is said to have grown out of a nasty local situation."

I would also like to read to him a portion of the judgement delivered by the chief of the dissenting judges which I think is worth quoting. This is what Mr. Justice Butler who headed the minority said:

" It is well known..... .that existing libel laws are inadequate effectively to suppress evils resulting from the kind of business and publications that are shown in this case. The doctrine that measures such as the one before us are invalid.... ..as previous restraints.... ..exposes the peace and good order of every community and the business and private affairs of every individual to the constant and protracted false and malicious assaults of any insolvent publisher who may have purpose and sufficient capacity to contrive and put into effect a scheme or programme for oppression, blackmail, or extortion."

That also is a demand which must be taken into consideration in dealing with the liberty of the press. The other thing which my friend has been harping upon all along is the phrase used by Justice Holmes in dealing with cases relating to

freedom of speech which is called " clear and present danger ". I have been trying to find out whether that is a very new doctrine so far as we are concerned. I suppose our judges also adopt the same doctrine. Supposing, for instance, a professor delivered a lecture on Communism in the Delhi University to the students. I do not suppose, although he may mention to them the violent methods that the communists adopt in order to achieve their object that anybody would hold that merely because he delivered a lecture to the students he was guilty of any offence. There was no " clear and present danger " and I have no doubt about it that our judges also would uphold the same line of reasoning. Therefore, as I said, I do not understand why our friends are abiding so much by certain catch phrases and certain decisions of the courts in the United States.

I will now deal with the question of confining " incitement " in violence and I want my friends, Dr. Shyama Prasad Mookerjee and also Pandit Kunzru to pay some attention to what I am saying—and I will take some very particular cases. First of all, I would like to know whether they are in a position to give a precise definition of the meaning of the word " violence ". What is " violence "? Is it to be confined merely to physical violence ?

Dr. S. P. Mookerjee: Violent words are excluded.

Dr. Ambedkar: I am not talking of violent words. Have they been able to give us any precise definition which would enable the legislature and the court to know that this is violence and this is not violence ? I cannot find any.

Shri Kamath: Put it as " as defined by law ".

Dr. Ambedkar: It is only postponing the trouble. Some day when we make the law we shall have to give the definition of " violence ".

I come now to specific instances. Supposing, for instance, there is trouble—I am giving some concrete cases which have happened—and there is trouble between the Scheduled Castes and caste Hindus in a particular village and the caste Hindus conspire together to proclaim a social boycott on the Scheduled Castes, preventing them from obtaining any kind of supplies, preventing them from going into the fields, preventing them from going into the jungles to collect fuel, then I want to know from Dr. Syama Prasad Mookerjee and Pandit Kunzru whether they want this, as an offence, to be regarded by the State as such or not.

Shri Naziruddin Ahmad: Doctors differ in this respect.

Dr. Ambedkar: I shall give another illustration which was recently reported in Bombay. In a place near Thana there was trouble going on between caste Hindus and the Scheduled Castes over the taking of water from a particular well. With the help of the police the Scheduled Castes there were able to secure their right to take water from that well along with the caste Hindus. The caste Hindus

did not like the matter. They wanted the well to be exclusively used by them. Two days ago there was a report in the Bombay Press wherein it was stated that some caste Hindus incited some of their men to drop into it some kind of poisonous weeds. The result was that the whole water was poisoned and some of the Scheduled Caste people who drank the water suffered from the effect of the poison. I want to ask both of them whether they would limit their definition of incitement to violence, or whether they would extend it to cover where one community does something in order to harm and injure another community.

Dr. S. P. Mookerjee: In such a case you and I will go there to prevent it.

Dr. Ambedkar: You and I cannot go everywhere. You will be engaged in fighting the elections and I may be doing something else and we will have no time to go to the rescue of those people. It is no use taking the responsibility on our shoulders. It is much better that the law provides for it.

Then with regard to particular laws, I and my colleagues on the Treasury Benches have been shouting time and over again that in this Bill what we are doing is to merely confer capacity on Parliament to make laws for certain purposes. We are not enacting particular laws. We are not even protecting the laws as they exist today. But somehow Members who are determined to oppose. Members who are determined to take the opposite view—if they will forgive me—out of pure obstinacy are not able to make this distinction between capacity to legislate and making a particular law.

Dr. S. P. Mookerjee: The obstinacy is yours not to understand.

The House then adjourned till Half Past Three of the Clock.

The House reassembled Half Past Three of the Clock. [PANDIT THAKUR DAS BHARGAVA in the Chair]

Shri Hussain Imam: I wish to draw the attention of the House that no zamindar in his senses objects to the dictum laid down by the Constitution or by the Hon. the Prime Minister. The whole quarrel arises whether the intention of the Constitution is carried out or something is being foisted on us in the name of the Constitution which is not covered by the terms of the Constitution as embodied in the Constitution Act. And secondly.....

An hon. Member: We are amending the Constitution.

Shri Hussain Imam: No. What we are doing is, according to the Prime Minister to carry out the intentions of the Constitution which our wording had failed to do. And there I am at one with him, that as a member of the Constituent Assembly, I am as much a party in this—though I was not present on that day—as anybody else is. There were two cardinal principles of the Constitution—firstly about the Acts which are passed after the Constitution came into effect and those Acts which were passed upto 18 months before the Constitution was brought into effect. Now I ask you, the House and the Law Minister to certify that the eleven

Acts are covered by these two categories. Only four Acts come under the category that are passed after the Constitution and had received the assent of the President. Seven Acts are not covered by this.

Dr. Ambedkar: They were assented, I understand.

Shri Hussain Imam: None, except the four. They are the Bihar Act, U. P. Act, Madhya Pradesh Act and the other Act. All the rest have not been assented to.

Shri Bharati (Madras): Madras Act has been assented to.

Shri Hussain Imam: Madras Act I of 1950 has been assented to, not the 1948 Act. I refer to this fact because in the beginning I spoke on the subject and suggested that ample time should be given to the House and to the Select Committee to examine these thoroughly.....

The other thing to which I would like to draw attention is to the dictum laid down by the Hon. Prime Minister that we must pay fair, adequate compensation and not too much and I agree with that dictum. But do consider the things as they are existing. I am one with the Government in abolishing zamindari but on fair terms.

Dr. Ambedkar: The words ' fair compensation ' do not appear in article 31.

Shri Hussain Imam: It was the wording of the Hon. Prime Minister. As far as article 31 is concerned, my charge is that the seven Acts that you are thrusting down our throats are not covered by the original provisions of article 31.

Dr. Ambedkar: They are governed by new article 31A.

Shri Hussain Imam: I was referring to the fact that we must face the facts. The Socialist party says that they are not going to honour the instalments that are going to be fixed by the Congress Government. The Communists have declared from the housetops that they are not going to honour it. Why be in a fool's paradise and believe that it will be paid in 40 years ? Half a loaf is better than nothing and if you have to give you should give now. You should realise the plight of small landholder of zamindar who has an income of 500 or 600 or 1,000 rupees. He is not a bloated capitalist. I aver that at least the lower income group should be given compensation in lump sums so that they may start some business.

Dr. Ambedkar: As to my own amendment I do not think that any argument is necessary in order to support the same. The amendment is merely an amplification as to the meaning of the word " estate ". Some people felt that while we had taken note of the laws that prevail in Part A States with regard to the definition of the word " estate ", we had not taken sufficient notice of the definition of the word " estate " operating in Part B States. In order to remove that doubt I felt that it was necessary to take note of it and to amplify the definition of the word " estate ", which I propose to do by my amendment.

My principal ground for rising to take part in the debate is to deal with the point

that was raised by my hon. friend, Ch. Ranbir Singh. His argument, if I understood it correctly, was this that while in some States in India the word "estate" is used in a limited sense so as to include only what we call intermediaries but not to include what we call the *ryotwari* estates, that is, people holding it in their own right without there being any intermediaries between them and the State, it is quite true that there are some States where the definition of the word "estate" is a wide one and might possibly include holders under *ryotwari* or occupants under the Bombay Land Revenue Code, or *ryots* in other parts of India. At one time I thought that it might be possible to give a limiting effect to the word "estate" by the addition of an explanation, but on further consideration I find that it is more or less impossible to give an explanation which would cover the point. But I would like to say this, that there is no intention on the part of Government that the provisions contained in article 31A are to be employed for the purpose of dispossessing *ryotwari* tenants..

Shri Hussain Imam: However big they might be?"

Dr. Ambedkar: Well, that is a different matter. We are making a distinction between intermediaries and *ryotwari* holders.

Now, that is certainly not the intention of the Government : I know that friends who are interested in this matter would hardly be satisfied with any expression of intention on the part of Government, but I think there is much more than mere intention in the Bill itself. If my friend Ch. Ranbir Singh, would refer to the proviso attached to article 31A which requires that every such Bill shall be reserved for the consideration of the President, I think he will see that there is a certain amount of safeguard in it, and, as I hope the Prime Minister in his speech in reply to this debate will also make it clear, there is no such intention on the part of Government and I believe that whenever any such measure before the President for consideration, the undertaking given in this House would be binding upon the President in giving his sanction so far as any such measure is concerned. Therefore, I submit there is no ground for any fear of any such thing happening and I believe that there is also no justification for any kind of propaganda that may be carried on by interested parties that this Bill proposes to give power to Government to expropriate everybody including the *ryotwari* tenants. I hope that this will satisfy my friend, Ch. Ranbir Singh.

With regard to the question that has been put to me by Durgabai... '

Shri R. K. Chaudhuri (Assam) : Shrimati Durgabai.

Dr. Ambedkar: These encumbrances I do not think are very necessary. I feel terribly embarrassed when somebody calls me *Shri*. *Shri* means wealth—1 have none of it.

Shri R. K. Chaudhuri: May I mention that sufficient mischief has been caused by my friend, Dr. Ambedkar, calling me by my short name the other day?

Dr. Ambedkar: I thought you agreed, that that did not change your sex?

Shri R. K. Chaudhuri: That is how jealousy has been created in the minds of some sections of the House.

Shrimati Durgabai: At least not in my mind.

Dr. Ambedkar: Now with regard to that, the relevant provision in the Madras Act is section 45. That section 45 deals with impartible estates. It does not deal with ordinary estates and the provision, so far as I understand it, is that the matter of deciding whether and how the compensation is to be distributed is left to a tribunal. This Bill does not add to the powers of the tribunal ; this Bill does not take away any of the powers that are given to the tribunal for that particular Act. I think within that ambit things will proceed in the way the Madras Act has determined.

Dr. Deshmukh: May I ask a clarification of the Hon. Law Minister? The Hon. Doctor has told us that there is no intention to dispossess or limit the *ryotwari* tenures. There are six Acts of Bombay in the Schedule. If any of these Acts do limit the *ryotwari* tenure, how far would it be proper to add those to the Schedule and how far does it cover the intention of Government not to bring in the ambit of this amending Act the *ryotwari* tenure or to limit their extent ?

Dr. Ambedkar: I know something of these Acts, coming from Bombay as I do and having practised in the High Court. Having had to deal with many cases, I have no doubt about it that the Khoti Abolition and other Acts to which my hon. friend has referred deal only with what we call intermediaries.

Shri Jawaharlal Nehru: My colleague the Law Minister has dealt with many of the points that have been raised,

The Minister of Law (Dr. Ambedkar) : On listening to the debate I believe the House desires that the powers of adaptation vested in the President should continue and that it is a very useful instrument which has been forged by the Constitution for the purpose of bringing the laws already passed into conformity with the provisions of the Constitution. On that, I do not see any kind of difference of opinion. The only question that has been raised is this : why is it that the President has not been able to make modifications in the laws that appear to be inconsistent with the provisions of the Constitution during the period that has elapsed between now and the passing of the Constitution and why is it that further time is necessary. That seems to be the only point which requires clarification.

It has been stated that the Law Department has been very lax. Some friends have said that it has gone to sleep.

Babu Ramnarayan Singh (Bihar): That is right. **Shri Hussain Imam (Bihar):** Dozing.

Dr. Ambedkar: I do not know whether such statements are mere matters of

imagination or whether there is any substance behind them—I think all hon. Members will agree that the Law Department is the smallest Department in the Government of India.

Babu Ramnarayan Singh: Why?

Shri T. Husain (Bihar): There is the Department of Parliamentary Affairs.

Dr. Ambedkar: The Department of Parliamentary Affairs has nothing to do with the Law Ministry; it is quite separate from it.

I should like to say that in the Law Ministry there are only three draftsmen. I have pressed on the Finance Ministry the necessity of increasing the number of draftsmen ; but I have failed.

Shri Kamath: A Deputy Minister ?

Dr. Ambedkar: A Deputy Minister cannot do anything in this matter, because no Minister can do drafting.

The House also will remember the amount of legislation that is being put forth before it ever since the Constitution came into existence. I believe, I am speaking from memory, that in each session there are something like 30 or 40 Bills which are presented. Some of them are (carried) through and some of them are left over. Out of those that are left over, some are converted into Ordinances and the House again sits to convert the Ordinances into laws. Now, it might well be imagined whether it is possible for three draftsmen to draft 40 or 50 Bills for each session, and yet have spare time for doing something else. That is a point which I think the House should consider in judging the work.

Shri P. Y. Deshpande (Madhya Pradesh): Who is responsible for there being only three ?

Shrimati Durgabai: May I ask a question ? Is it only a question of drafting or changing the substance of the laws ?

Dr. Ambedkar: I am coming to that; please do not be in a hurry.

Therefore, the normal work of the Law Ministry is so heavy and it is very difficult to cope with it. The adaptation work is something abnormal and something that is new that has been thrown upon the Law Ministry. There has been no expansion of the staff to cope with this new work. That is one point which I think the House will remember when criticising the Law Ministry for not completing the work of adaptation.

The work of adaptation obviously fails into two categories. There are adaptations which are merely of a formal character. For instance, in the existing laws, the expression used is ' Provincial Government '. Today, the expression that is used for the corresponding purpose is " State Government ". These are formal amendments. These amendments have already been carried out and I do not think any part of that work remains. But, the other part of the adaptation work, namely, making substantial modifications in the existing laws in order to bring

them into conformity with the provisions of the Constitution is a totally different business from the formal kind of adaptation to which I have referred.

Now, let us consider how it is possible to proceed methodically with regard to making modifications of a substantial character in the existing laws of the country, in order that they may be brought into conformity with the provisions of the Constitution. Obviously there must be some officer somewhere at the Centre whose duty it would be to, what we call, note on the Acts in the various States and Acts made by the Centre, in order to ascertain for himself whether there is anything in any of the existing laws—whether they are made by the Centre or by the Provinces—which he thinks at the initial stage requires consideration from the point of view of adaptation. After that work is done, the matter may come to the Law Ministry for further examination whether there is any substance in the note made by that particular officer. There again the matter cannot end. Obviously, there must be further correspondence between the Law Ministry and the Law officers in the States in order to find out whether they agree with the view that certain of their laws are inconsistent with the provisions of the Constitution. If they agree, well and good; action may be taken. But, if they do not agree, then, obviously, the matter has to be referred to the Advocate General of the State and also the Attorney-General of the Government of India, because, in this matter, they are the final advisers of the Government and on whose advice alone the Government could act. The number of Acts in the Provinces are legion : the number of Acts made by the States are equally large. One can well imagine the amount of time which would be necessary in order to go through the process which I have detailed here before the Central Government could come to the conclusion that a particular law must be declared to be null and void or must be modified in certain parts in order that it may be brought into line with the Constitution and the President may accordingly issue an Order. It is therefore not quite so easy as some people in the House seem to think. It is a very elaborate and labourious process.

After all, what is the President in this matter? The President is a law making authority. His authority is practically co-extensive with the authority of Parliament. But, in order that it may be done in an expeditious manner, we have vested the President with this particular power. I am sure that so important and so crucial a power of law-making practically could not be exercised in a hurried manner and to make some kind of a change may be absolutely inappropriate and quite unjustified. These are the reasons why it has not been possible for the Law Ministry to complete the task and why the Law Ministry thinks that perhaps one more year may be necessary. It should also be remembered in this connection that the Law Ministry has been now for the last three months practically busy with the work of elections, preparing the two Representation of the People Bills,

delimitation of constituencies, considering the amendments that are coming to the Order of the President delimiting the constituencies etc. They will also be busy with making rules and all sorts of other things relating to the elections and these are matters which are now outstanding before the Law Ministry. And especially in view of the limited staff of the Law Ministry, I cannot see how any spare staff can be found or how time can be found to be devoted exclusively for the purposes of carrying out the object laid down in article 372. Therefore, further time is necessary. And that is the reason why this amendment has been moved.

With regard to the point made by my friend Ch. Ranbir Singh relating to the declaration that the Punjab Land Alienation Act is invalid and inconsistent with the provisions of the Constitution, I should like to say this. The point that he raised was that it was wrong on the part of the Government of India to have abrogated the whole of that legislation that has been operating there. Well, this matter also was considered in the Law Ministry, whether it was possible to modify some of the provisions of that Act and leave the rest intact. But I should like to tell the House that with all the goodwill in the world, so far as that Act was concerned, both the Attorney-General here and, if I remember correctly, the law officers of the Punjab Government agreed that every one of the provisions of that Act was inconsistent with the Constitution. Therefore we had no remedy left except to declare the whole Act invalid.

Now, I have given the justifications to the House why this amendment is necessary and I hope the House will be satisfied with the explanation that I have given.

Shri Kamath: What about the suggestion to have a Committee of this House to help the Law Ministry ?

Dr. Ambedkar: Yes. With regard to that, there again, as I said a Committee of the House might help at a much later stage. But unless I am in a position to place before any Committee of this House material which has already been examined by somebody, the Committee, in my judgement, could not come to any conclusion. Preliminaries will be necessary and I myself have got an idea in my mind that it may be desirable to appoint a small Committee of some retired High Court judges to examine the matter and report to us as to what are the laws which require consideration from the point of view of article 372.

Shri Kamath: Members of the House ?

Dr. Ambedkar: I thought my friend said lawyer Members. Yes, they may be co-opted. After the report is received, they may be taken into confidence and the matter may be decided.

Shrimati Durgabai: I would like to get one point cleared by the Hon. Law Minister. We have been told that whenever a law is made by a State Legislature on any item in the Concurrent List, it would come to the Centre automatically for

consultation, advice and all that. I would like to know when such a proposed legislation is sent to the Centre, whether the matter is left to the draftsmen to decide whether the law is inconsistent or not? What is the procedure?

Dr. Ambedkar: The lady is thoroughly confused. I am sorry to say.

Shrimati Durgabai: That does not matter. The Law Minister may clear up the confusion.

Dr. Ambedkar: Adaptation applies to existing laws. It does not apply to future laws. All the laws that come to us for such consultation are future laws. The article deals with the existing laws which were made when there was no Chapter on Fundamental Rights anywhere in the Government of India Act and which have now become subject to the Fundamental Rights, and therefore inconsistent. So the inconsistency has to be removed.

Mr. Deputy Speaker: The point is, with respect to any law that is being now made. If it is in the Concurrent List, it is reserved for the President's consent. When such a law comes up, it is left to the draftsmen to find out whether it is inconsistent or not?

Dr. Ambedkar: The draftsman certainly plays his part; but the Law Ministry takes the responsibility and the Cabinet also takes the responsibility.

Shri Husain Imam : May I know what is the position with regard to those Acts that are in the Schedule ? Have they been adapted or are they proposed to be adapted? For instance the Bombay Act LXVII has certain reservations on the lines of the Punjab Land Alienation Act which has been declared *ultra vires*. Do Government propose to modify this Act? It is item 2 in the Ninth Schedule. The Bombay Tenancy and Agricultural Lands Act, 1948 does not deal with abolition of zamindaries, but says that transfer shall not take place between certain classes.

Dr. Ambedkar: The answer of the House is that these Acts shall be validated by the Constitution without the necessity of adaptation. I am bound by the decision of the House. This point should have been raised yesterday.

Shri Naziruddin Ahmad: I raised that very point yesterday, but you rejected it.

Shri Rajagopalachari: Further questions may be postponed to the interpellation programme, and the present clause may be got through.

Mr. Deputy Speaker: We have had sufficient discussion.

The question is:

" That clause 12 stand part of the Bill."

The House divided: Ayes, 232: Noes, 9.

Prof. S. L. Saksena: It hurts me very much that this amendment should be made to our Constitution. After all, when we framed our Constitution we were very careful to see that our judiciary is above suspicion and that it is independent

and able to interpret the Constitution in the best manner possible. Still we have found the Law Minister accusing the Supreme Court the other day of having wrongly interpreted the purpose of one of the provisions. The Prime Minister also has been saying that the intention of the makers of the Constitution has not been brought out by the interpretation of the judges of the Supreme Court and of the High Courts. I think this is a very unfair criticism : if the Supreme Court judges who have given these rulings were foreigners probably there might have been some suspicion, that they were not patriotic and therefore did not interpret our laws correctly. I personally feel that if you...

Dr. Ambedkar: I should like to repudiate any such suggestion as my hon. friend is making. We impute no bad motives to the Judges.

Prof. S. L. Saksena: I am glad that he has said it today. Apart from the reasons given by my friend, Prof. Shah, that we should not change the Constitution for the sake of four persons, still even on principle I think that a foreigner sitting in the place of the Chief Justice will not have the independence and courage to give a judgement which will be above suspicion. The Law Minister said that nobody has cast an aspersion on the Judges. I have carefully read the speech of the Prime Minister.....

Mr. Chairman: May I just remind the hon. Member that the point at issue is not what the Law Minister or the Prime Minister has said in some other connection ? We are considering this clause and their view is not relevant to its consideration. The only point relevant is whether this clause should be accepted. I would beg of the hon. Member to confine his remarks to this question alone.

Shri Rajagopalachari: The hon. Member wants to know what prohibition there was which we are trying to remove. Article 217 contains the prohibition against any Judge being a non-citizen. All the Judges would be covered by that provision. That is sought to be removed by a transitory provision.

Mr. Chairman: If a person cannot become a Judge of a High Court how can he become the Chief Justice ?

Shri Shiv Charan Lal: Transfer is covered by article 222. Therefore, for transfer it is not necessary that the Judge should be a citizen and it is not necessary to have this amendment.

Dr. Ambedkar: Sir, if it satisfies the House I would like to propose an amendment to clause 13 which would read thus :

In page 4, lines 8 and 9, "or of the Supreme Court ".

Shri Kamath: That is one of my two amendments that I have moved.

Dr. Ambedkar: Well, I am prepared to accept yours, if you like. I do not think any further reply is necessary from me if the House is satisfied with the deletion of the words "or of the Supreme Court".

Mr. Chairman: I shall now put the amendments to the House. (Prof. *Shah's* amendment was negatived.)

Mr. Chairman: The next is seeking to omit the words " or of the Supreme Court ". It is the same amendment that Dr. Ambedkar has proposed.

Shri Jawaharlal Nehru: It is exactly the same.

Shri Kamath: But I have moved it and Prof. Shah has also moved it.

Mr. Chairman: The amendment is there and I am bound to put it to the House.

An hon. Member: It may be withdrawn.

Prof. K. T. Shah: Why should I withdraw it ?

Mr. Chairman: The question is: In page 4, lines 8 and 9, omit "or of the Supreme Court".

The motion was adopted.

Mr. Chairman: The question is:

In page 4, after line 9, add: " Provided that such Chief Justice or other Judge of a High Court

shall acquire citizenship of India within three months of such appointment; and provided that no one who is not a natural born citizen of India shall be appointed Chief Justice or Judge of the Supreme Court of India."

The motion was adopted.

Dr. S. P. Mookerjee : This, as the Prime Minister has said, is a consequential change. Apparently, it refers to the Hyderabad Regulations which the House incorporated on an amendment moved on the floor of the House. What about the last part of the clause ? It says :

"each of the said Acts (and Regulations, if this is accepted) shall, subject to the power of any competent legislature to repeal or amend it, continue in force."

So far as these Regulations are concerned, they cannot be repealed or amended by any Legislature when there is no Legislature in Hyderabad. There also, it should be altered by saying ' legislature or other competent authority'.

Dr. Ambedkar: Whatever legislature there is, it will have the right to amend.

Mr. Speaker: There is confusion about the meaning of the word ' legislature '. A legislature is conceived as consisting of a Chamber with elected representatives and so on. I believe the legislature here means, the Rajpramukh who is himself the legislature. That I think is the constitutional meaning.

Dr. Ambedkar: Yes.

Mr. Speaker: If that is so, there is no difficulty.

The question is:

In page 2,

- (i) line 35, after " Acts " insert " and Regulations " .
- (ii) line 36, after " Acts " insert " and Regulations " .
- (iii) line 39, after " Acts " insert " Regulations " .
- (iv) line 42, after " Acts " insert. "Regulations " .

The motion was adopted.

Shri Kamath: Is it not necessary to put this clause, as amended, to the House?

Mr. Speaker: Is it really necessary ? The position will be like this. " That the Bill, as amended, be passed " will be the motion I am going to put to the House. There is no particular clause again to be put to the House. The hon. Member will note that clause 5 was voted upon and the House has assented to it. Votes were taken separately on that clause. This amendment comes in as a consequential amendment.

Mr. Speaker: Under rule 94.

Dr. S. P. Mookerjee: It is for you to consider this. With regard to clauses, you have ruled deliberately for the sake of safety that every clause should be put separately and the votes of two-thirds of the Members present and voting should be recorded. Now, clause 5 has been passed in accordance with that direction. Now, we are amending clause 5. Is it not desirable and safe that clause 5, as amended, should be put separately and votes recorded ?

Mr. Speaker: That would be an irregular procedure. That clause, in the clause by clause consideration at the second reading, has been already accepted by the House. The proposition before the House is that the entire Bill, as amended, be passed. The amendment is merely a consequential or verbal amendment, which is permissible at this stage. No substantial amendment is permissible at this stage.

ORISSA ORDER

Dr. Ambedkar: I beg to move: [For text of the motions see Appendix XXXIII, annexure 1]

WEST BENGAL ORDER

Dr. Ambedkar: I beg to move: [For text of the motions see Appendix XXXIII, annexure 1]

MADHYA PRADESH ORDER

Dr. Ambedkar: I beg to move: [For text of the motions see Appendix XXXIII, annexure 1]

RAJASTHAN ORDER

Dr. Ambedkar: I beg to move: [For text of the motions see Appendix XXXIII, annexure 1]

PART C STATES ORDER

Dr. Ambedkar: I beg to move: [For text of the motions see Appendix XXXIII, annexure 1.

REPRESENTATION OF THE PEOPLE (NO. 2) BILL—contd.

The Minister of Law (Dr. Ambedkar) : Sir, with your permission, I would like to move certain formula and consequential amendments to the Representation of the People (No. 2) Bill as it has emerged from the second reading. I beg to move: " That the Bill, as amended, be passed. "

Mr. Chairman: Motion moved : " That the Bill as amended, be passed. "

Shri Kamath (Madhya Pradesh) : Before the Law Minister proceeds to move these amendment may I remind you of what I requested the hon. Speaker yesterday that this House is entitled to have notice of amendment. I must record my protest against this in the most emphatic terms that these lists of amendments were received not even last night but only this morning at about seven O'clock—just an hour before we left home for Parliament. I feel that in the circumstances the Law Minister may put of moving his amendments till tomorrow and that Members be given adequate time to scrutinise and examine the amendments and to give notice of any amendments to these amendments. I must request you to hold that these amendments have come very late and House must be given at least a day for examining the amendments and for submitting amendments to them.

Shri J. R. Kapoor (Uttar Pradesh): I associate myself with the suggestion made by Shri Kamath that as these amendments have been sent to us this morning, we might be given some reasonable time to see whether in our opinion they fit in with the scope and object of the Bill. I do not mean to raise any technical objection. I am never in that habit.....

Shri Kamath; Mine was not a technical objection either.

Shri J. R. Kapoor: Therefore, I am associating with Shri Kamath's suggestion. We are very particular about this Bill and are anxious to see that no amendment—even though it might have been carefully looked into by the hon. Law Minister—should be allowed to be incorporated in the Bill unless we have had a reasonable opportunity of analysing it.

Dr. Deshmukh (Madhya Pradesh) : I think the suggestion made is quite

reasonable and I hope that you will be pleased to accept it..... Under those circumstances, it is but fair that hon. Members of this House should have an opportunity of seeing what consequential amendments are proposed and if there is any necessity for the same. They should have a fair opportunity of giving notice of any amendments they wish to move. There are many other measures that can be taken up today.

Mr. Chairman: I would like to know the reaction of the Hon. Law Minister.

Dr. Ambedkar: I contend that these amendments are purely formal and consequential. There is nothing which raises the question of substance. However, if Members think that they need some time, I have no objection to the matter being taken up tomorrow subject to the other business of Government.

The Minister of State for Parliamentary Affairs (Shri Satya Narayan Sinha) : The next item on the agenda may be taken up.

Mr. Chairman: I quite see the reasonableness of the request.

[For text of the motions See Appendix XXXIII, Annexure 4.] MADHYA PRADESH ORDER

Shri M. A. Hassan (Madhya Pradesh): I beg to move: [For text of the motions see Appendix XXXIII, Annexure 4]

The Minister of Law (Dr. Ambedkar) : I beg to move: [For text of the motions see Appendix XXXIII, Annexure 4] UTTAR PRADESH ORDER

Pandit Balkrishna Sharma (Uttar Pradesh): I beg to move:

[For text of the motions see Appendix XXXIII, Annexure 4]

Mr. Speaker: I do not know what the Government proposes to do about the motions in respect of the U. P. Order. The motions have to be moved today.

Dr. Ambedkar: I am in a difficult situation, because the revised order is not yet ready.

Mr. Speaker: Will it be ready by one o'clock to-day ?

Dr. Ambedkar: We are trying our best and I shall let the House know and let you also know before one o'clock how the position stands.

Mr. Speaker: The point is that before one o'clock the motions must be made in the House. Otherwise, perhaps, the motions will not be admissible at all. Therefore, I would suggest the motions may be moved and examined and then it will be possible to suggest amendments in the motion. That would be one of the courses open. The Hon. Law Minister may consider that, I mean amendments so far as language and other such things are concerned and not amendments of substance.

MOTIONS Re. DELIMITATION OF CONSTITUENCIES ORDERS, 1951—

contd.

The Minister of Law (Dr. Ambedkar) : I should like that the Assam order be first taken into consideration.

Mr. Deputy Speaker: Yes. A number of amendments have been tabled to this. For the purpose of convenience is it not possible to ascertain what amendments the Hon. Law Minister is prepared to accept, in which case the other amendments may not be pressed ? Of course, if there are any Members who want to press their amendments we can deal with them.

Dr. Ambedkar: With regard to Assam I have many amendments.

Mr. Deputy Speaker: Therefore, if the Hon. Minister moves his amendments first, whatever is not covered we can address ourselves to it later.

Dr. Ambedkar: My amendments are in Suppl. List 4, Nos. 1 to 8. They are purely technical amendments and there is no point of substance involved. On further consideration I propose to withdraw Nos. 1 and 2 of my amendments.

The amendments, by leave withdrawn.

Shri Chaliha: I also like to press my motion No. 2 in supplementary List No. 2. I do not press No. 1.

In the constitution it is provided that the Shillong constituency will be open as a general constituency. Article 332(6) says:

"No person who is not a member of a Scheduled Tribe of any autonomous district of the State of Assam shall be eligible for election to the Legislative Assembly of the State from any constituency of that district except from the constituency comprising the cantonment and municipality of Shillong."

I think Dr. Ambedkar has accepted this and it is said that was a printing mistake and that it will not be reserved for the Scheduled Tribes but that it will be a general constituency. Through mistake or otherwise it has been reserved for the Scheduled Tribes. It should not be reserved for them. It should be open for the general population. This has been specifically provided in the Constitution as I have already pointed out.

Dr. Ambedkar: I had said that the office has treated it as a printing error and that we propose to issue a corrigendum. Probably it has already been issued.

Shri Chaliha: In that case I would like to withdraw that motion (No. 2 in Supplementary List No. 2 relating to Assam Orders).

The motion was, by leave, withdrawn.

Dr. Ambedkar: I would like to accept the following amendments:
Consolidated List I—parts 1 and 2. Consolidated List I—amendments 1 to 4.

Mr. Deputy Speaker: That means 50 percent of Mr. Das's amendments.

Shri Biswanath Das: I gave notice of other amendments.

Mr. Deputy Speaker: None here.

Shri Biswanath Das: Even these amendments represent only the few that I had to give notice of after persistent requests from the members of different districts. I had another amendment. After they were accepted by the Hon. Minister I thought they would give notice of them.

Dr. Ambedkar: I have given the amendments that I have accepted.

Mr. Deputy Speaker: The question is :

[For text of the motions see Dr. Ambedkar's amendments Nos. 1 to 3 (Orissa Order) in Appendix XXXII, annexure 1].

The motion was adopted.

Mr. Deputy Speaker: To that extent the President's order is modified.

The question is:

That the following modification be made in the Delimitation of Parliamentary and Assembly Constituencies (Orissa) Order, 1951 laid on the Table on the 16th May 1951, namely:

1. That at page I, in Table A—Parliamentary Constituencies, in column I, for the entry " Dhenkanal " the entry " Ganjam-South * be substituted ".

1. That at page I, in Table A—Parliamentary Constituencies, in column I, for the entry " Ganjam-South " be substituted ".

The motion was adopted.

Dr. Ambedkar: My own amendment is in Supplementary List 2, Nos. 1 to 5. I accept the one in the name of Mr. Biswanath Das 1 and 2, the second with the modification "North East Ganjam "as "Ganjam South". The other amendment which I have accepted is in Supplementary List No. 1, 1 to 4 as modified.

Mr. Deputy Speaker: The question is:

That the following modifications be made in the Delimitation of Parliamentary and Assembly Constituencies (Orissa) Order, 1951, laid on the Table on the 16th May 1951, namely:—

1. That at page I, in Table A—Parliamentary Constituencies, for the entry " Koraput in column I, and all the entries against it in columns 2, 3, 4 and 5, the following be substituted, namely:—

1	2	3	4	5
Nowrangpur	Nowrangpur sub-division, and the Padua, Pottangi, Simliguda and Nandapur police stations of of Koraput subdivision	1		

2. That at page 1, in Table A— Parliamentary Constituencies, for the entry " Rayagada-Phulbani " in column I, and all the entries against it in columns 2, 3, 4, and 5, the following be substituted, namely:—

1	2	3	4	5
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Rayagada-Phulbani	The entire Rayagada subdivision and the police stations of Koraput, Dashmantpur, Laxmipur and Narayanapatna of Koraput sub-division as also the district of Phulbani except police stations of Manmunda and Bondh.	1		
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3. That at page 1, in Table B— Assembly Constituencies, for the entry " Nowrangpur " in column 1, and all the entries against it in columns 2, 3, 4, and 5, the following be substituted, namely:—

1	2	3	4	5
Nowrangpur	Nowrangpur Police stations of Nowrangpur Kodinga, Moidalpur, Dabugaon, Omerkot and Jharigaon.	2		1

4. That at page 1, in Table B—Assembly Constituencies, for the entry " Omerkot-Moidalpur " in column 1, and all the entries against it in columns 2, 3, 4, and 5, the following be substituted, namely:—

1	2	3	4	5
Jeypur	Police stations of Jeypur, Kotpad Boriguroma, B. Singhpur and Tonulikhunti.	2	1	

The motion was adopted.

Mr. Deputy Speaker: So the President's order stands modified by these amendments.

Several hon. Members: It is time to adjourn, Sir.

Shri Kamath: Before the House adjourns may I bring to your notice the understanding arrived at about the question list for the 2nd, which had been postponed to the 9th. I trust that arrangement stands and that list will be taken up tomorrow.

Mr. Deputy Speaker: That will stand.

Will the Law Minister indicate the order in which he is going to take these delimitation orders ?

Dr. Ambedkar: I do not think the House will complain that they were taken by surprise, if sometimes I take some orders out of turn. All of them have been before them.

Mr. Deputy Speaker: All the orders will be completed tomorrow.

The House then adjourned till Half Past Eight of the Clock on Saturday, the 9th June 1951.

Shri P. G. Sen: There is one inter-district constituency known by the name of Darbhanga-cum-Bhagalpur, *vide* Delimitation Order, page 3. In page 4 there is another constituency as Pumea-cum-Bhagaipur.

Mr. Speaker : Order, order, hon. Members may carry on their consultations elsewhere and not disturb the House.

Shri P. G. Sen: My point in moving the motion is that the common ground is Bhagalpur. It can be amalgamated either this way or that. The question of amalgamation and the formation of the constituency is the question which I want to raise.....

Dr. Ambedkar: I have understood the point and I can reply to it in one sentence.

Shri P. G. Sen: Yes, Dr. Ambedkar can answer in a word or in a sentence.

Mr. Speaker: Order, order. The hon. Member will address the Chair.

Shri P. G. Sen: Certainly Dr. Ambedkar is a better orator than myself.

In bringing this motion before the House the question that arose in my mind was: am I doing injustice to Bhagalpur, or am I doing injustice to Darbhanga, or to Purnea? Not at all. The river Kosi divides the two districts of Bhagalpur and Purnea, and sufficient public money has been spent in undertaking aerial flights over this area Just imagine the state of those flood-devastated Kosi area for which this House has on more than on occasion been pressing to hurry up with the construction of the Kosi Project.

Dr. Ambedkar: This is becoming an irrigation department event.

Shri P. G. Sen: Another point I wish to submit is that I wish to amalgamate the entire area of Bhagalpur with Darbhanga and make it a plural constituency with reservation for a scheduled caste seat. The scheduled caste voters in Darbhanga are nearly 2,50,000 and Bhagalpur portion of Purnea-cum-Bhagalpur constituency has 71,000 voters (Scheduled Caste) so if that entire area of Bhagalpur in Purnea-cum-Bhagalpur Constituency is amalgamated with this Darbhanga-cum-Bhagalpur area a plural-member constituency can be formed. It would not be out of place to mention here that there is a topographical error in amendment No. 1 of Supplementary List No. 2 where in column 3 it is shown as "2" whereas in column 4 it is shown as nil; in column 4 "1" should be inserted.

Shri P. G. Sen: May I submit to you Sir, that this is the only House where one can demand some justice done ?

Mr. Speaker: Order, order, I may tell the hon. Member that the House will certainly do justice, but to have what one wants is not necessarily justice—though it may be so from one's own point of view, he has to leave it to the good sense of other people also who have no interest in doing injustice to anyone.

Dr. Ambedkar: There is only one point that I would like to mention in connection with the motion made by my friend, and it is this that the constituency that he proposes will have a total number of electors of 4,43,524 as against the maximum limit of 3,87,929. That objection itself is fatal to his proposal.

Shri P. G. Sen: But it is a plural-member constituency.

Dr. Ambedkar: So that is fatal to his proposal.

Mr. Speaker: So I am going to put the motion of Shri P. G. Sen to vote. (No. 1 in Supplementary List No. 2— Bihar Order). The question is:

[For text of the motion see Amendment No. 1 S. L. 2 printed in Appendix XXXIII, Annexure 1.]

The motion was negatived.

Dr. Ambedkar: Amendment No. 3 part 3 in Supplementary List No. 6, that is the amendment of Shri Jajwara as modified by the amendment of Shri S. N. Das.

Mr. Speaker: Now, I would like the House, at the end of the motions relating to each province, to pass a sort of a motion to the effect that consequential amendments in respect of the order relating to that particular State may be made under the authority of the Speaker, so that the draftsman and the Department will examine all these and set them right. The amendments will be strictly consequential and not substantial.

Dr. Ambedkar: For that purpose I shall be moving a separate amendment conferring upon you the power to permit the draftsman, in consultation with you, to make certain consequential amendments.

Mr. Speaker: So we shall do it by one comprehensive motion at the end of the orders.

As regards the other motions I take it that hon. Members who have moved them will have the leave of the House to withdraw them.

The amendments were, by leave withdrawn.

BOMBAY ORDER

Dr. Ambedkar: Sir, I am prepared to accept the following amendments:

Supplementary List No. 1, Amendments No. 1 to 8 of Shri Shankar Rao Deo and others.

They are purely consequential amendments. List No. 2, Amendment No. 2 of Shri Nijalingappa and Shri Munavalli; subject to the modification that in the entry against South Satara for " Item (15) " the words " Item (57) " be substituted. Then I propose to accept:

In List No. 3, amendment No. 3, parts (1) and (2) by Shri Deogirikar and Shri Kumbhar.

In List No. 6, amendments Nos. 1 and 2, subject to the modification that against the entry Kolhapur-cum-Satara the words " The whole " at the beginning of the entry in column 2 are to be omitted.

In List No. 7, amendment No. 2, part 2, by Shri Hiray and Shri Deogirikar.

Then in List No. 8, I propose to withdraw amendments Nos. 1, 2 and 4 because they have already been covered by amendment No. 2 of List No. 6.

Then I propose to accept: In List No. 8, amendments nos. 3 and 5 to II.

In amendment No. 11, page 11, under item (64) for "Mahagond" substitute "Mamewadi"—which is a verbal change being a change of name—and "Gajargaon" at the end. Then I accept: In List No. 10, amendments 1, 2 and 3 by Shri Nijalingappa.

Mr. Speaker: In the list that he has given only 2 and 3 are mentioned.

Dr. Ambedkar: It was a mistake. I am accepting 1, 2 and 3.

Shri Kumbhar (Bombay): The amendment in list No. 6 is in my name. But my name is dropped.

Mr. Speaker: The name is there and the motion has already been made. Nothing further has to be done in respect of it now except the voting. Let him not worry about his name. We will see that it is properly put in.

Shri Kumbhar: There is another one excluding Kagal Taluk.

Dr. Ambedkar: Sir, those are changes which could be done by the draftsman on your authority.

Mr. Speaker: If they are consequential amendments. If we accept the substance they will be made.

Shri Bhatt : *rose*—

Dr. Ambedkar: My friend, I know, Sir, is particular about the mentioning of ' Santa Cruz ' and so on. I have told him that those amendments will be made on your authority by the draftsman under the resolution I am proposing at the end.

Mr. Speaker: As regards the details of mentioning Santa Cruz or this road or excluding Kagal or bringing it in, let all the proposals by the hon. Members be made to the draftsman and let them discuss with him. He will consider them and, if necessary, I will pass orders.

Dr. Ambedkar: That is what I propose to ask.

Shri Bhatt: That is what I wanted to ask, whether changes in names would be made by your orders.

Dr. Ambedkar: As I said, I am going to move a motion. The substance of the motion will be that you will be empowered to instruct the draftsman to make certain changes of a purely formal character. When the House passes the motion the Speaker will have the necessary power to do the needful.

Mr. Speaker: This difficulty arises because some of the Members are not present from time to time and therefore they miss the whole thing. Is there any other member wishing to move any other amendment?

Shri Hiray (Bombay): Yes, Sir.

Mr. Speaker: In addition to what the Law Minister is accepting ?

Shri Hiray: Yes.

Dr. Ambedkar: What has happened on account of the decision relating to Dangs is that one more seat has been added to Maharashtra and that seat belongs to the Tribal people. Therefore a seat has to be provided in the constituencies that have been delimited so far as Maharashtra is concerned. This is the proposal which stands in the name of Mr. Hiray. Either he may move it or I may move it.

Mr. Speaker: It is better if the Hon. Minister moves it.

Dr. Ambedkar: I beg to move:

In Table B, page 8, Nasik District, in column I, *for* the words "Nasik urban" and "Nasik rural *cum* Igatpuri ", *substitute* the words " Nashik Igatpuri" and against the same constituencies.—

(1) In column 2, *omit* all the words beginning with " Nasik Municipal " and ending with " latpuri Municipal area " and *substitute* " Nasik and Igatpuri Talukas including all Municipalities therein ".

(2) In columns 3, 4, 5 *omit* the figures given therein and *substitute* 3, 1, 1 instead respectively.

Shri Kanhayala Desai (Bombay) : There is a consequential amendment relating to Pardi. One scheduled tribe seat which is at present in Pardi Taluka should be removed and it should become a general seat.

Dr. Ambedkar: That becomes consequential. That you can do, Sir.

Mr. Speaker: Let it go on record that a specific point was raised.

Mr. Speaker: The amendment of Dr. Ambedkar about Dangs. (as mentioned above).

The motion was adopted.

Shri Hiray: There is my consequential amendment in List No. II.

Mr. Speaker: That is with reference to having one seat from Maharashtra. That is purely consequential and we will accept it as such.

The Hon. Law Minister wishes to have the leave of the House to withdraw amendments Nos. 1, 2 and 4 in List No. 8 and all the other hon. Members wish to have the leave of the House to withdraw the various amendments and motions standing in their names. The amendments were by leave withdrawn.

[MR. DEPUTY SPEAKER IN THE CHAIR]

MADHYA PRADESH ORDER

Dr. Ambedkar: The amendments I am prepared to accept are these:

List No. 1.—Amendments Nos. 6 and 8 in the name of Kishorimohan Tripathi and others.

List No. 2.—amendment No. 1, parts 1 to 5 of Dr. P. S. Deshmukh and others

together with two consequential amendments to be moved by Dr. Deshmukh.

Lift No. 3.—Amendment No. 2 in the name of Shri Kishormohan Tripathi and others together with a consequential amendment to be moved by Shri Tripathi. (Amendment No. 2 is to be slightly modified so as to read " Khamaria R.I.C. of Khamaria Tehsil) " for " Khamaria Tehsil " .

List No. 6.—Amendment Nos. 1 to 5.

Shri Jangde : Sir, I want to withdraw my amendments.

Mr. Deputy Speaker: I will later ask leave of the House for the withdrawal. I will now put amendments No. 1 to 5 in list No. 6. Have they any consequential amendments ?

Dr. Ambedkar: There, are no amendments to these amendments Nos. 1 to 5.

Mr. Deputy Speaker: The question is:

{For text of the motions see Dr. Ambedkar's amendments Nos. 1 to 5 in List No. 6 printed in Appendix XXXIII, annexure No. 3.]

The motion was adopted.

Dr. Deshmukh: I have to move my amendments.

Mr. Deputy Speaker: Yes, That is with reference to amendment No. 1 in List No. 2.

Dr. Ambedkar: There are amendments to his amendments Nos. 1 to 5 of List 2.

Mr. Deputy Speaker: To this extent the President's Order stands modified. Leave may be granted to all the Members to withdraw their amendments. All the other amendments moved by other hon. Members were, by leave withdrawn. **Mr. Deputy Speaker:** The Madhya Pradesh Order is over.

Dr. Ambedkar: There are other friends who are pressing me that their matter may be taken up first, that is West Bengal and Hyderabad.

Mr. Deputy Speaker: I am taking up Madras.

MADRAS ORDER

Dr. Ambedkar: With regard to the Madras Order, I am prepared to accept the following amendments:—

List No. 4.— Amendment No. 1, part 3, second alternative, and part 4, of Shri Kala Venkatarao.

Amendment No. 2, parts 1 and 2, of Shri Keshava Rao. *List No. 6.*— Amendment No. 1, Parts 1 and 2, of Shri Sanjivaya,

subject to the recast of part 2 as follows : " That for all the entries against " Erode " in columns 2, 3, 4 and 5 the following be substituted:

1	2	3	4	5
Erode	Erode taluk, Bhavani taluk, Dharapuram taluk {excluding such of the villages of Kundadam Firka as are specified in item No. (19) of the Appendix] and Kugalur Firka and such	2	1	

	of the villages of Gobichettipalayam Firka of Gobichettipalayam taluk of Coimbatore district as are specified in item No. (18) of the Appendix ; and Kanir taluk Kattalai, Kulithalai and Panjarpatti Firkas of Kulithalai taluk of Tiruchirapalli district			
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List No. 11.— Amendment No. 2, parts I to 3, by Shri Kodandarama Reddy and others.

List No. 12. —Amendments Nos. 1 to 13, subject to amendment No. 6 being modified by Hon. Minister of Law as follows:—

That for all the entries against " Tiruppur " in volumes 2, 3, 4 and 5 the following be substituted : —

1	2	3	4	5
Tiruppur	The Kollegal, Gobichettipalayam and Tiruppur taluks and Savur and Avanashi firkas of Avanashi taluk (excluding the Kugalur firka and such of the villages of Gobichettipalayam firka of the Gopichetti-palayam taluk as are specified in item No. (18) of the Appendix and the the Varapatti firka of Tiruppur taluk) of the Coimbatore District.	2	1	

I beg to move:

(i) At page 4 in Table A.—Parliamentary Constituencies, against the entry ' Dharmapuri ' for the words " and Edappadi firka of Tiruchengoda taluka of Salem District " substitute the words " and Edappadi firka and such of the villages of Sankagiri firka of Tiruchengode taluk of Salem District as are specified in item 18A of the Appendix ".

(ii) At page 4, in Table A.—Parliamentary Constituencies, against the entry " Tiruchengoda " for the words " (excluding Edappadi firka of Tiruchengoda taluk) " substitute the words " (excluding Edappadi firka and such of the villages of Sankagiri firka of Tiruchengode taluk as are specified in item 18A of the Appendix) ".

(iii) At page 11 in Table B.—Assembly Constituencies, against the entry "Tiruchengode", for the entry in column 2, substitute the following:

" Tiruchengode taluk (excluding Edappadi firka and such of the villages of Sankagiri firka and of the Tiruchengode firka as are specified in items (18A) and (16) respectively of the Appendix) ".

(iv) At page 11 in Table B. —Assembly Constituencis, against the entry "Edappadi", for the entry in column 2, substitute the following:".

Edappadi firka and such of the villages of Sankagiri firka of Tiruchengode taluk as are specified in item (ISA) of the Appendix and the Mettur and Nangavalli firkas of Amalur taluk ".

Sir, I want to move all the amendments in List No. 10. They are only a corrigenda.

Shri A. Joseph:In the interest of the organisation to which I belong and in the interest of the Government I appeal to the House to provide plural member constituencies with distributive voting without reservation. If the Law Minister is not in a position to agree then I oppose his motion and I would ask you to record my disagreement with the proposal for single member constituencies without giving any facilities for the minorities.

Dr. Ambedkar: I cannot accept the amendments.

Mr. Deputy Speaker: Were similar plural member constituencies created in the U.P. ?

Dr. Ambedkar: No, Sir. Nowhere has an exception been made.

WEST BENGAL ORDERS

Dr. Ambedkar: With regard to the West Bengal Order, I am prepared to accept the following amendments:

Consolidated List No. 2—Parts I to 6 of Shri Samanta and Shri B. K. Das.

Supplementary List No. 1: Amendment No. 1—Parts 1 and 2 and Amendment No. 2—Parts 1 to 8 of Shri Himatsingka and Mr. Haq, as modified by Supplementary List No. 5, Amendments I to 4 of Shri Jhunjhunwala and Shri Sinha.)

I withdraw amendments Nos. 4 and 12 to 15 from the Supplementary List No. 3. The rest of them I move.

Shri Chattopadhyay (West Bengal) : I would like to move the amendment appearing in Supplementary List No. 2, It covers 108 items, of which I do not want to press item No. 30.

Dr. Ambedkar: If I may say a word, in view of the fact that there is such a keen difference of opinion, I am prepared to suggest that it may be left to the Speaker to treat this matter as a sort of a nomenclature matter, without touching the substance. This matter may be kept open. Those Members who care may approach the Speaker and convince him that this is a matter of nomenclature and formally they may be put in without in any way disturbing the areas that are included in the particular constituencies.

Pandit Maitra: I am afraid we cannot agree to this because if one single member is keen on having a change in the nomenclature, another Member may suggest another thing and.....

Shri Chattopadhyay: Why are you afraid ?

Dr. M. M. Das: That would be inconvenient.

Shri J. R. Kapoor (Uttar Pradesh) : The point raised by Mr. Chattopadhyay is appealing to most of us. We do not want that at this late stage there should be any substantial change. The changes that he suggests could easily be made in the manner suggested by the Law Minister and an overwhelming majority of the

House will, I should say, support that.

Shri S. M. Ghose (West Bengal); How could this Order be finalised by the Speaker ? My hon. friend has suggested some nomenclature. Other Members may suggest some other names. There will be no end to that.

Mr. Deputy Speaker: The Hon. Speaker has to be here. He has to invite other Members together and ascertain from them what their wishes are. What about the Order ? Are we to say that the Order has to be modified to that extent or not ? Nomenclature is a part of the Order, it is .not something like the marginal notes. I think there will be some difficulty in the matter. I leave it to the House.

Shri Chattopadhyay: With a heavy heart, Sir, I am forced to withdraw them.

The amendments were, by leave, withdrawn.

Mr. Deputy Speaker : Now, I shall put the amendments of Dr. Ambedkar in Supplementary List No. 3. the question is:

(For text of the motions see amendments Nos. 1 to 3, 5 to II and 16 to 19 in Supplementary List No. 3 as printed in Appendix XXXIII annexure 1).

The motion was adopted.

Mr. Deputy Speaker: The other hon. Members desire to withdraw their amendments.

All the other amendments were, by leave, withdrawn. 12-00 Noon.

Mr. Deputy Speaker: The President's Order regarding West Bengal stands modified to the extent of the amendments moved and accepted in the House.

HYDERABAD ORDER

Dr. Ambedkar: I am prepared to accept the following amendments.

Consolidated List. Amendment No. 1 parts I and 5 by Shri Ramachar others.

Amendment No. 2, parts I to 6, parts 10 to 12 and parts 15 and 16, by Shri Ramachar and others.

Amendment No. 3 parts I and 2 by Shri Ramachar and others.

The motion was adopted.

Mr. Deputy Speaker: The President's Order regarding Hyderabad stands modified to the extent of the amendments moved and accepted in the House. The other Members desire to withdraw their amendments.

All the other amendments were, by leave, withdrawn. MADHYA BHARAT ORDER

Dr. Ambedkar: I accept amendments Nos. 1, 2, 3, 6, 7, 9 and II in List No. 3 by Shri Radhelal Vyas. Also in List No. I, Appendix 1.

Mr. Deputy Speaker: The question is:

[For text of the motions see Amendments Nos. 1, 2, 3, 6, 7, 9 and II in List No. 3 printed in Appendix XXXIII, annexure 2.]

The motions were adopted.

Mr. Deputy Speaker: The question is:

[For text of the motion see List I, Appendix I (as modified by the previous amendments in List No. 3 printed in Appendix XXXIII, annexures 1 and 2.)

The motion was adopted. MYSORE ORDER

Dr. Ambedkar : I accept amendments Nos. 1 and 2 in List No. 1 by Shri Rudrappa.

Mr. Deputy Speaker: The question is:

[For text of the motion see Amendments Nos. 1 and 2 in List No. 1 printed in Appendix XXXIII, annexure 3.]

The motion was adopted.

Mr. Deputy speaker: All the other amendments are desired to be withdrawn.

The amendments were, by leave, withdrawn.

Mr. Deputy Speaker: The President's Order regarding Mysore stands modified to the extent of these amendments now accepted.

Then the Punjab Order?

Dr. Ambedkar: No, Sir, The Punjab Order will have to be kept back for some time now. We may take up the P.E.P.S.U. Order.

P.E.P.S.U. ORDER

Dr. Ambedkar: I accept amendment I, parts 2 and 3 of Sardar Sochet Singh in the Consolidated List and also amendment No. 1 of Sardar Ranjit Singh as amended by amendments Nos. (i) and (ii) of Supplementary List No. 3 by Sardar Man.

Mr. Deputy Speaker: Let us take them in order and finish first the Consolidated List.

Dr. Ambedkar: All right. I accept parts 2 and 3 of amendment No. 1 of Sardar Sochet Singh and others.

Mr. Deputy Speaker: The question is:

* [For text of the motion see Consolidated List, Amendment No I, parts 2 and 3 printed in appendix XXXIII, Annexure 1.]. The motion was adopted.

Dr. Ambedkar: I accept, in Supplementary List 2, amendment No. 1 of Sardar Ranjit Singh, as amended by amendment No. 1, parts (i) and (ii) in Supplementary List 3 by Sardar Man.

So the amendment in Supplementary List 3 may be put first.

The motion was adopted.

Mr. Deputy Speaker: The President's Order regarding P.E.P.S.U. stands modified to the extent of the amendments now adopted.

RAJASTHAN ORDER

Dr. Ambedkar: I accept amendment No. I, parts I to 5 in the name of Shri R. C. Upadhyaya in Consolidated List as modified by amendment No. 1 of Shri Ghule in Supplementary List No. 4.

Mr. Deputy Speaker: The question is. (For text of the motion, see Amendment No. 1 by Shri Ghule in S. L. No. 4).

The motion was adopted.

Dr. Ambedkar: I accept the amendments in the name of Shri R. C. Upadhyaya and others, Parts I to 19 on pages 2 to 5 of C.L.

Mr. Deputy Speaker: The question is:

[For text of the motion see amendment 3, parts I to 19, C.L. printed in Appendix XXXIII, annexure 1.]

The motion was adopted.

Dr. Ambedkar: Amendment No. 1 of Supplementary List No. 2 and also No. 2 of S.L. No. 2, as modified by amendment No. 2 in Supplementary List No. 4, standing in my name may be accepted.

Dr. Ambedkar: I accept amendments Nos. 1 to 3 of Supplementary List No. 5 by Shri R. C. Upadhyaya.

The motion was adopted.

The other amendments were, by leave of the House, withdrawn.

SAURASHTRA ORDER

Dr. Ambedkar: I accept amendments Nos. 1 and 2 of List No. 1 by Mr. C. C. Shah and Shri Hathi.

Mr. Deputy Speaker: To the extent of these amendments the Saurashtra Order of the President stands modified.

There is no other amendment.

Dr. Ambedkar: As regards the Travancore and Cochin Order there is no amendment. A corrigenda has been issued.

Shri R. Velayudhan (Travancore-Cochin): There were some discrepancies in printing.

Shri Lakshmanan (Travancore-Cochin): They have all been covered by the corrigenda.

PART C STATES ORDER: DELHI

Dr. Ambedkar: I accept amendment No. 2 in consolidated List (in the name of Shri Kesava Rao and others).

The motion was adopted.

Mr. Deputy Speaker: There are no other amendments, I suppose. The President's Order relating to Part C States stands modified to the extent of the amendment just now carried. Other amendments by Dr. Ambedkar and others, if any, are to be withdrawn by the leave of the House.

The other amendments were, by leave, withdrawn.

Dr. Ambedkar: Only two other provinces remain, namely U.P. and Punjab.

Several amendments have come just now and I have not had time to apply mind to them. If the parties concerned are prepared to go by the original arrangements then I am prepared to proceed further. But I find that some changes have been introduced and I must have a clear understanding of what is sought to be done. I personally think that half an hour in the afternoon would be more than enough for both the Provinces.

Shri Shiv Charan Lal: There might be difficulty then with regard to the quorum) because Members of other States may be absent from the House.

Mr. Deputy Speaker: Only two more orders relating to U.P. and the Punjab are outstanding. If there is unanimity in the House we can meet as late as possible, for I do not want to give the impression that I have muzzled them if anybody wants to speak.

Shri Amolakh Chand: Can we not adjourn for half an hour and then continue for the simple reason that at 4-30 p.m. Members may not come ?

Mr. Deputy Speaker: The Minister must have sufficient time to consider the amendments.

Shri T. T. Krishnamachari (Madras) : Is there no other business ?

Mr. Deputy Speaker: No other business except passing these two orders.

The House then adjourned till Half Past Four of the Clock.

The House re-assembled at Half Past Four of the clock

[MR. SPEAKER *in the Chair*] PUNJAB ORDER

Mr. Speaker: We will now proceed with the Punjab Order. May I know the Nos. of the agreed amendments ? I think we will follow the same procedure as in the morning.

Dr. Ambedkar: The agreed amendments are as follows :

List 7.—Amendment No. 2, part 5, sub-part (i) and sub-part (ii) of Shri B. L. Sondhi, Chaudhari Ranbir Singh and others.

List 9.—Amendment No. 6, parts 2 and 3, of Prof. Yashwant Rai. *List 10.*—Only the first amendment in the list I move. I do not move the second and the third amendments as these are superseded by amendments Nos. 5(i) of List 7 and 3(6) of List 12.

List 12.—Amendment No. 1, parts 1 and 2, of Shri B. L. Sondhi, Ch. Ranbir Singh and others.

Amendment No. 2 of Sardar Bhopinder Singh Man and others, as modified by amendment in List No. 13, of Ch. Ranbir Singh and others.

Amendment No. 3, parts 4, 5 and 6 (second part) of Shri Sondhi, Ch. Ranbir Singh and others, with minor consequential changes in part 6 (second part) as follows:

5. That at page 6, in Table B.— Assembly Constituencies, for the entries ' Ludhiana Sadar ', ' Jagraon ' and ' Raikot ' in column I and all the entries occurring against them in columns 2, 3 and 4, the following be substituted, namely :—

1	2	3	4	5
Jagraon	Jagraon Tehsil....	2	1	
Ludhiana Sadar	Nurpur Bet, Baddowal, Dhandra, Lalton, Kalan, Gill and Dhandari Kalan Zails of Ludhiana Sadar thana, and Shankar and Han Zails of Delhon thana and Dakha Zail of Dakha thana of Ludhiana Tehsil.	2	1	
Delhon	Pakhowal and Andlu Zails of Raikot Thana and Delhon thana (excluding Shankar and Hans Zails) of Ludhiana Tehsil.	1		

Amendment No. 4, parts I and 2, of Pandit Thakur Das Bhargava and Chaudhari Ranbir Singh. These are the amendments I am prepared to accept, Sir.

Mr. Speaker: I take it no other hon. Member wishes me to put any of his motion to the House.

Well, then I shall dispose of these amendments first. The question is:

[For text of the motion see)

List 7—Amendment Nos 2, part, 5, sub-part (i) and sub-part (ii), of Shri B.L. Sondhi, Chaudhari Ranbir Singh and others.

List 9—Amendment No. 6, parts 2 and 3, of Prof. Yashwant Rai.

List 10— Only the first amendment in the list.

List 12—Amendment No. I, parts I and 2, of Shri B. L. Sondhi, Ch. Ranbir Singh and others.

Amendment No. 2 of Sardar Bhopinder Singh Man and others, as modified by amendment in List No. 13, of Ch. Ranbir Singh and others.

Amendment No. 3, parts 4, 5 and 6 (second part) of Shri Sondhi and others, with minor consequential changes in part 6 (second part) as follows:

6. At page 6, in Table B.—Assembly Constituencies, for the entries 'Ludhiana Sadar', 'Jagraon' and 'Raikot' in column I, and all the entries occurring against them in columns 2, 3 and 4, substitute the following:—

1	2	3	4	5
Jagraon	Jagraon Tehsil....	2	1	
Ludhiana Sadar	Nurpur Bet, Baddowal, Dhandra, Lalton, Kalan, Gill and Dhandari Kalan Zails of Ludhiana Sadar thana, and Shankar and Han Zails of Delhon thana and Dakha Zail of Dakha thana of Ludhiana Tehsil.	1		

Delhon	Pakhowal and Andlu Zails of Raikot Thana and Delhon thana (excluding Shankar and Hans Zails) of Ludhiana Tehsil.	1		

printed in appendix XXXIII, annexures 3, 4]. The motions were adopted.

Mr. Speaker: To this extent the President's Order is modified.

Now leave is asked for to withdraw amendments Nos. 2 and 3 in List No. 10 and all the other motions that have been moved.

The amendments were, by leave, withdrawn.

Ch. Ranbir Singh: There is a clerical error here, Sir.

Mr. Speaker; As I have pointed out, all technical errors and apparent mistakes may be brought to the attention of the Hon. Minister of Law and they will be put through as consequential amendments.

Now, let us go to the U.P. Order. UTTAR PRADESH ORDER.

Dr. Ambedkar: Sir, the agreed amendments are as follows:

List 1—Amendment No. 1 of Pandit Shiv Charan Lal.

List 7— Amendment No. 2, parts 1,2,3,4,5 and 6, of Shri C. D. Pande.

Amendment No. 5 of Shri Sohan Lal and others subject to substitution of " Basti District (Central East)-cum - Gorakhpur District East " for "Basti District (Central East-cum -Hasanpur Pargana", in col. 1.

Amendment No. 6, part 2, of Shri Satish Chandra.

Amendment No. 9 of Babu Gopinath Singh and Pandit Balkrishna Sharma, subject to the insertion of "I.A.F. Domestic Camp" after " Chakeri Aerodrome " in the entry in col. 2 against Kanpur (East).

List 8— Amendment No. 4, parts 1 and 2, of Shri K. C. Sharma. Amendment No. 5 of Shri Beni Singh and others.

Amendment No. 7, parts 1 to 4, of Shri Amolakh Chand.

Amendments Nos. 8 and 10 of Shri Beni Singh and others.

Amendment No. 12, parts 1 and 2, of Shri K. C. Sharma. Amendment No. 14 of Shri T. N. Singh.

List 9— Amendments Nos. 1, 4, 5 and 6.

Amendments Nos. 2, 7 and 8 subject to the following modifications proposed by me: That in the motions in List No. 9 (Uttar Pradesh Order) standing in my name the following amendments be made:—

1. That in motion No. 2, at page 3 of the List, against the entry " Allahabad District (East)-cum -Jaunpur District (West) " for the words " (excluding the Municipality and Cantonment of Allahabad " in column III, the words " Chail tehsil (excluding the Municipality) and cantonment of Allahabad " be substituted.

2. That in motion No. 2, at page 3 of the List, after the entry " Allahabad

District (West) " the following entry be inserted :—

1	2	3
Gorakhpur District	such of the Patwari circles of Haveli pargana of Pharenda tehsil of Gorakhpur District as are specified in item (94) of the Appendix	such of the Patwari of circle and forest areas of Haveli Pargana of Pharenda tahsil of Gorakhpur district as, are specified in item (94) of the Appendix.

3. That in motion No. 8, at page 12 of the List, for items Nos. (38) and (39) of the proposed Appendix, the following items be substituted:—

" Patwari circles of Akbarpur Tehsil (38)

Singhpur Saholi, Nevada Deorani, Jaitpur Sheoli, HIRAMAN SHEOLI, Dhakan Sheoli, Saraiyan, Baridaryao, Baghpur, Sobhan, Baghwat , Nehuta, Rastpur, Kakar, Dahi, Bairisawai, Marag, Rampur, Sheoli, Kandri, Bhewan, Nunari Bahadurpur, Baragaon, Baranpur Kahinjari, Kashipur Deepchand, Kashipur HIRAMAN, Kashipur Jagamman Shah, Kashipur Bhurshah, Hatika, Manda, Kekarmau, Naubasta, Bhaupur, Pitrapur, Ant, Raipalpur, Baluwapur, Lalpur and Aliapur.

Patwari circles of Derapur Tehsil (39)

Nandpur, Sargaon Khurd, Mungisapur, Derapur Khas, Salimpur, Sabdalpur, Kurhawal, Maujpur, Agwasi, Urgan, Padnai, Korawa, Amauli Kurmian, Hathuma, Mukbilpur, Daryapur, Netarah, Garhiya Sikandra, Mohammadpur Sultanpur, Jagannathpur, Sandalpur, Haswan, Jamaura, Revan, Hawaspur, Ankna, Pendarathu, Sahnipur, Chamrawa, Kasolar, Achhrauli, Dharampur, Indrukh, Sargaon Buzurg, Jignis, Galuwapur and Baragaon Bhikhi."

4. That in motion No. 2, at page 1 of the List, the entries relating to "Almora District (West)-cum-Garhwal District (East) " be deleted.

5. That in motion No. 2, At page 2, the following be deleted.

(i) The entries relating to " Kanpur District (North)-CMm-Farrukhabad District(South-East)-cum-Tehsil Etawah District (East)" to the two places where they occur.

(ii) The) entries relating to " Etawah District (West) ".

(iii)The entries relating to "Kanpur District (South)"

6. That in motion No. 7, at page 6 of the List, the entries relating to " Kanpur City (South) ", " Kanpur (Central) ", " Ghatampur (West)-cum-Bhognipur (East) " and " Bhognipur (South-East)-cum-Akbarpur (South) "be deleted.

7. That in motion No. 8, in the Appendix, item No. 17-A relating to Patwari circles of Meerut. Pargana be omitted.

I withdraw amendment No. 3 in List No. 9. Amendment No. 3 in List No. 9 was, by leave, withdrawn.

Mr. Speaker: So I am taking all of them together. Do the hon. Members wish to take any one of them independently? If that is so I have no objection.

Pandit Kunzru (Uttar Pradesh) : I want to know what is the principle on which all these amendments have been accepted. I find that one of the amendments has been tabled by a member of the Committee, Shri T. N. Singh. I would, in particular like to know what that amendment is.

Dr. Ambedkar: Those amendments on which there was general agreement were accepted. In regard to the particular amendment referred to by the hon. Member it is No. 14 in list No. 8.

Pandit Kunzru: My Hon. friend Dr. Ambedkar says that those amendments have been accepted about which there was general agreement. I do not know what he means by " general agreement ". If he meant among the members of the majority party, obviously there could have been agreement on many other points. If that was the only basis on which the modifications were to be made, there was no need for the appointment of a Delimitation Advisory Committee. But I should like to know whether apart from the fact that there was agreement on those points, there was any other reason for their acceptance.

Dr. Ambedkar: Well, I think the Hon. House knows that we have been proceeding upon the basis of the decision of Members of the various Committees which were appointed by the Speaker to delimit the constituencies and whenever the Members have agreed to make a change, I have thought it fit to accept that change. No. 14 which I am accepting is one such amendment.

Pandit Kunzru: Does he mean Members of the majority party or does he mean the Members of the Committee appointed by the Speaker?

Dr. Ambedkar: With regard to that, I should like to point out that so far as delimitation is concerned, no distinction has been observed between Members of the majority party and Members of any other party. All Members have been invited to place their views before this Cabinet Sub-Committee which was appointed to examine this matter. Any Member, irrespective of the party to which he belonged, had the freedom to come and plead his cause. Some Members did come.

Shri T. N. Singh (Uttar Pradesh): Sir, as my name has been brought in I would ask your permission to say a few words. It is only this that the amendment to which my hon. friend referred is only a consequential amendment which should have been made and which by error was not made in the report of the Committee. I can explain the details personally to him, as it is not possible to explain it here.

Mr. Speaker: Does any other Member wish to take up his motion independently?

Dr. Ambedkar: Sir, I hope this matter was discussed in the committee and I told Mr. Kapoor that his amendment was incomplete and therefore could not be accepted without causing disturbance to other constituencies. He was not able to give a complete scheme where the thing would be fitted in with the rest. That is the reason why this amendment was not considered.

Shri J. R. Kapoor: *rose*—

Mr. Speaker: The hon. Member has no right of reply. Does he wish me to put these to the House now ?

Shri J. R. Kapoor: Of course, though it may be rejected.

Mr. Speaker: I shall place them before the House.

Shri J. R. Kapoor: No, Sir, I would like to withdraw them.

The amendments of Shri J. R. Kapoor were, by leave, withdrawn.

Mr. Speaker: I will now put all the agreed amendments which the Law Minister has placed.

All amendments were adopted.

Mr. Speaker ? Has the Hon. Member, as also the other hon. Members who have moved amendments, the leave of the House to withdraw their amendments?

The amendments were, by leave, withdrawn.

Mr. Speaker: That disposes of all the motions. Now I shall take up consequential amendments.

Dr. Ambedkar: I beg to move:

"That with reference to the amendments to the Delimitation of Parliamentary and Assembly Constituencies Orders moved and accepted by the House necessary consequential, drafting and other formal changes be carried out in the said Orders under the authority of the Honourable the Speaker. "

Dr. Deshmukh: I have given notice of a similar amendment. I beg to withdraw it.

Mr. Speaker; It has not been placed before the House. So there is no need to withdraw it.

Shri Chattopadhyay: I have an amendment to this amendment. I beg to move:

In the Consequential Amendment standing in the name of Dr. Ambedkar, after the words " formal changes ", insert the words " including nomenclature of Constituencies ".

Mr. Speaker: Does the Hon. Minister accept it ?

Dr. Ambedkar: I cannot accept it in this formal and binding character.

The Prime Minister (Shri Jawaharlal Nehru) : I take it, Sir, that if a name is wrongly spelt it will be correctly spelt. That does not need a formal amendment. If there are minor errors I take it that they can always be corrected.

Shri Chattopadhyay: There was good deal of discussion this morning over this and there was some difference of opinion too in this matter and Dr. Ambedkar said " Let this matter of nomenclature be left to the Speaker ".

Dr. Ambedkar: I admit. But I said if the Speaker thought that the change in nomenclature of a place is a formal change; then it will be covered by my amendment.

Shri Chattopadhyay: It is for this reason that I have tabled this amendment.

Mr. Speaker: What does he want me to do now ?

Shri Chattopadhyay: I would like that after the words " formal changes " the words " including nomenclature of Constituencies " should be inserted. It is not formal. It is in my opinion very substantial, because in some cases.....

Mr. Speaker; I understand his point. If he urges that it is a substantial thing, no amendment can now be made. If it is a formal or consequential amendment which will include also sometimes, as Dr. Ambedkar said, even a change in nomenclature, then matters will stand differently. Therefore it is no use having this amendment..

Shri J. R. Kapoor: Do we .take it that the change of the name of a constituency, if it does not materially or even slightly change the extent of the constituency, is covered by Dr. Ambedkar's motion?

Dr. Ambedkar: It is in the discretion of the Speaker.

Mr. Speaker: The House has accepted certain modifications. The House is going to give powers to the Speaker to make amendments of a consequential or formal character because, as was said, I believe, in the morning, there may be a misdescription of a boundary. Instead of " east " it might have been stated as " west ". Only such amendments will be put through. There can be no further amendments now. Even by the unanimous decision of the House the Chair cannot go beyond the decisions of the House. The Chair will do only what is absolutely necessary to give effect to the decisions already arrived at by the House. That is the spirit in which the consequential amendments will take place.

PAPERS LAID ON THE TABLE
DELIMITATION OF PARLIAMENTARY AND ASSEMBLY

CONSTITUENCIES ORDERS

The Minister of Law (Dr. Ambedkar): I beg to lay on the Table the following Orders made by the President on the 15th May, 1951, under sub-section(3) of section 13 of the Representation of the People Act, 1950;

(1) The Delimitation of parliamentary and Assembly Constituencies (Assam) Order, 1951.

(2) The Delimitation of Parliamentary and Assembly Constituencies (Bihar)

Order, 1951.

(3) The Delimitation of Parliamentary and Assembly Constituencies (Orissa) Order, 1951.

(4) The Delimitation of Parliamentary and Assembly Constituencies (West Bengal) Order, 1951.

(5) The Delimitation of Parliamentary and Assembly Constituencies (Hyderabad) Order, 1951.

(6) The Delimitation of Parliamentary and Assembly Constituencies (Madhya Bharat) Order, 1951.

(7) The Delimitation of Parliamentary and Assembly Constituencies (Patiala and East Punjab States Union) Order, 1951.

(8) The Delimitation of Parliamentary and Assembly Constituencies (Rajasthan) Order, 1951.

(9) The Delimitation of Parliamentary and Assembly Constituencies (Saurashtra) Order, 1951.

(10) The Delimitation of Parliamentary and Assembly Constituencies (Travancore-Cochin) Order, 1951.

(11) The Delimitation of Parliamentary and Assembly Constituencies (Part C States) Order, 1951.

[Placed in Library. See No. P-169/51].

PAPERS LAID ON THE TABLE Delimitation of Parliamentary and
Assembly constituencies Orders

The Minister of Law (Dr. Ambedkar): Under subsection (3) of section 13 of the Representation of the People Act, 1950. I beg to lay on the Table the following Orders made by the President on the 18th May, 1951;

(1) The Delimitation of Parliamentary and Assembly Constituencies (Bombay) Order, 1951.

(2) The Delimitation of Parliamentary and Assembly Constituencies (Madhya Pradesh) Order, 1951.

(3) The Delimitation of Parliamentary and Assembly Constituencies (Madras) Order, 1951.

(4) The Delimitation of Parliamentary and Assembly Constituencies (Madras) Order, 1951.

(5) The Delimitation of Parliamentary and Assembly Constituencies (Uttar Pradesh) Order, 1951.

(6) Delimitation of Parliamentary and Assembly Constituencies (Mysore) Order, 1951.

[Placed in Library, See No. p. 169/51].

Mr. Speaker: That exhausts all the Orders. I believe?

Dr. Ambedkar: Yes.

Mr. Speaker: I have to inform hon. Members that copies of certain Orders made by the President regarding Delimitation of Constituencies, which have just now been laid on the Table, will be placed in the parliamentary Notice Office as soon as they are received from the Press, hon. Members may obtain a copy each of these Orders on request.

BUSINESS OF THE HOUSE

* **Mr. Speaker:** I will see what is possible in this direction. I do not promise anything.

The House may adjourn now.....

Pandit Thakur Das Bhargava (Punjab): It will be very difficult to finish the Bill by 1 o'clock. If the work is not finished by 11 o'clock. I have never seen a Bill being guillotined.

Mr. Speaker: If there is no agreement. If there is agreement certainly, we can finish.

Pandit Thakur Das Bhargava: I would therefore beg of you to give more time to come to an agreement.

Mr. Speaker: If the hon. Members are so agreed that they will finish the whole Bill by 1 o'clock, they may assemble at five minutes to one and finish. I do not mind. The only point is there must be some time limit. We must sit with an effort to finish. Otherwise, the discussions will be unending.

The Minister of law (Dr. Ambedkar): I do not know what the arrangement is.

Mr. Speaker: We are now adjourning and meeting again at 11-30.

Dr. Ambedkar: My view is this. That may not prove to be an easier solution. Therefore, the suggestion that I was making was this. I should be prepared to get on with some of the clauses about which there is no dispute at all. There is one clause, only one I think about which there is not yet any agreement. I am afraid it will take a pretty long time to reach an agreement. I thought the better course would be to proceed with the clauses about which there was no dispute at all. There, we shall see whether after a short adjournment, we are able to reach an agreement or whether we would require postponement of the consideration of that particular clause to some other date.

Mr. Speaker: Anyway, there is a strong desire in the House to adjourn now to have informal discussions. I have accepted that position. It has not yet been declared as a decision from the Chair, but it has been unannounced from the Chair.

Dr. Ambedkar: I would press on the House to reconsider the matter.

Mr. Speaker: Let us not now take it.

Dr. Ambedkar: There are some clauses which can just be gone through without any speech.

Mr. Speaker: In respect of them too. If the clauses can be gone through immediately, there is no special point in not adjourning now. When we meet at 11-30 those clauses may be put through.

The House will now adjourn and reassemble at 11-30.

The House then adjourned till Half Past Eleven of the Clock.

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